

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 25<sup>th</sup> July 2018

The House met at 2.30 p.m.

*[The Speaker (Hon. Justin Muturi) in the Chair]*

### PRAYERS

### PETITION

**Hon. Speaker:** Hon. Members, Standing Order 225(2) (b) requires that the Speaker reports to the House any Petition, other than those presented through a Member. I, therefore, wish to convey to the House that my Office has received a Petition signed by one Mr. Antony Muchui Manyara and another, regarding the management of operations at the National Youth Service.

Hon. Members, the Petitioners allege that the National Youth Service currently under the Ministry of Public Service, Youth and Gender Affairs is being mismanaged and is a centre for massive corruption occasioning serious wastage of tax payers' resources.

Hon. Members, The Petitioners therefore, prays that:

(i) The National Assembly investigates the pending bills on the NYS youth empowerment programme; and,

(ii) Transfers the functions and operations of the National Youth Service to be under the management of the Members of Parliament at the constituency level for effective management.

Hon. Members, as you aware, the first part of the prayers is already being addressed by the Public Accounts Committee. With regard to the second part of the prayers, Article 132 of the Constitution vests the responsibility of assigning, directing and coordination of the functions of ministries and government departments to the Presidency, and not this House. This implies that the prayer falls outside the matters within the authority of Parliament.

Hon. Members, in view of above, only the first part of the prayers of this Petition is admissible and since the investigations by Public Accounts Committee have been active for quite some time now, I will request the Clerk of the National Assembly to forward the report of the Committee to the Petitioner once the report is tabled.

I thank you, Hon. Members!

### PAPERS LAID

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, the system is not updated. There is Supplementary Order Paper, but the Order Paper showing is the one for 9.30 a.m. Whoever is in charge of the system should...

**Hon. Speaker:** I quite agree with you. I know the Supplementary Order Paper was done late but even my screen is blank.

**Hon. Aden Duale** (Garissa Township, JP): Even the ordinary one is not there. It is only the one for 9.30 a.m.

Hon. Speaker, I beg to lay the following Papers on the Table of the House.

The Reports of the Auditor-General and Financial Statements in respect of the following Institutions for the year ended 30<sup>th</sup> June, 2017, and the certificates therein:-

- a) Centre for Mathematics. Science and Technology Education in Africa;
- b) Kenya Scouts Association;
- c) Kenya National Assurance Company (2001) Limited;
- d) Technical University of Mombasa;
- e) Small Enterprises Finance and Company Limited;
- f) Kenya Safari Lodges and Hotels Limited;
- g) Kenya Slum Upgrading Low Cost Housing and Infrastructure Trust Fund (KENSUF);
- h) Konza Technopolis Development Authority;
- i) Kenya Institute for Public Policy Research and Analysis;
- j) State Department of Natural Resources; and,
- k) Kenya Yearbook Editorial Board.

Thank you, Hon. Speaker.

**Hon. Speaker:** The Chairperson Departmental Committee on Education and Research.

**Hon. Julius Melly** (Tinderet, JP): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House today Wednesday 25<sup>th</sup>, 2018:

The Report of the 20<sup>th</sup> Conference of the Commonwealth Education Ministers held in Nadi, Fiji from 19<sup>th</sup> to 23<sup>rd</sup> February, 2018.

**Hon. Speaker:** The Chairperson, Departmental Committee on Labour and Social Welfare, Hon. Ali Wario.

**Hon. Ali Wario** (Garsen, JP): Hon. Speaker. I beg to lay the following Paper on the Table of the House.

The Report of the Departmental Committee on Labour and Social Welfare on the Petition by Residents of Samburu North Constituency regarding challenges in implementation of the Social Assistance Programme. Thank you.

**Hon. Speaker:** Next Order!

## STATEMENTS

Yes, Leader of the Majority!

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, three months ago, I brought a Petition on behalf of the deaf people in this country. The Standing Orders are very clear. A Committee can only hold that Petition for 60 days. Now I am going to look for a sign language interpreter because the deaf community has been on my neck. Every night, I receive many text messages asking for their Petition. I remember it went to the Departmental Committee on Labour and Social Welfare. Somebody must rise up and say whether they do not want the deaf and the dumb people in our country to get help when they go to see doctors or get key government positions. So, the Chair of the Departmental Committee on Labour and Social Welfare should tell us what has become of my Petition on behalf of the good people who belong to the family of people with disabilities. Today, we have one of the major conferences in UK on

disability. I am sure they are watching us. I really wanted the Chair to tell us whether he has met that section of the Kenyan society.

**Hon. Speaker:** Hon. Wario, what is the position of that Petition?

**Hon. Ali Wario** (Garsen, JP): Thank you, Hon. Speaker. The Departmental Committee on Labour and Social Welfare respects the disabled society. They are part and parcel of our society. But we can only prosecute a petition which is before us. I will confirm to you that Petition has not yet reached us. As soon as it reaches us, we will prosecute it as quickly as possible. There was the other Petition brought in by Hon. Sossion. It took a whole month in the Table Office before it was brought to us. This has not reached us. Thank you, Hon. Speaker.

**Hon. Speaker:** It means that something is not happening at the Table Office. The Clerk is, therefore, instructed to make sure that... The instructions are that once a petition has been read out here on the Floor of the House---

*(Hon. Omboko Milemba consulted loudly)*

Hon. Omboko Milemba, what you are doing is out of order! If you want to speak to the Member for Kangundo, just move from your place to his place and whisper to him, so that we can transact business.

So, the Table Office and, indeed, the Clerk's Department are instructed to ensure that we do not get these kinds of complaints. Once a petition has been read out here, the moment it lands in the Table Office, it should be transmitted immediately to the clerk in charge of the relevant committee, so that the 60 days or whatever other period begins to run. So, I am sure the Leader of Majority and Leader of Minority, we will discuss that and ensure that this does not recur. Majority Whip, what is your point of order?

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you Hon. Speaker. Whereas the blame may go to the Table Office, but is it not proper for the clerks of the committee to follow what takes place in the House in terms of even getting the HANSARD reports. That is because we cannot entirely rely on the action of the Table Office. That is because petitions are pronounced in the House and they are either brought by Members or through your Office. I was thinking that it was also equally the responsibility of the clerk of respective committees to follow what is taking place in the Chambers so that they can advise the Chair and the respective members of the committees.

**Hon. Speaker:** That will be a slower process because what happens in the Chamber would need to be transcribed. If they wait for the transcription, that might take slightly longer than if the Table Office acts as directed. Indeed, it is the responsibility of the Table Office to get in touch. That is because if we now require the clerks, it would mean that the clerks would do nothing else, but to be chasing the HANSARD to get transcriptions of what happened, for instance, this morning when, of course as we expect, they are also doing other things the committees may have assigned them to do. So, I think it is the responsibility of the Table Office to be touch with the various clerks heading various committees.

Hon. Kamket, you are in breach of the Standing Orders. No! No! No! You know the rules. At least, Hon. Kamket cannot feign ignorance because he has also served not just as a former Speaker, but as an officer of this Parliament. Then after that, he graduated to some speaker somewhere!

*(Laughter)*

Before now being elevated to be a Member of the House. So, I think, let us get the Table Office doing this. It will be a lot easier.

Hon. Members, before we move to the next Order, I wish to recognise the presence, in the Speaker's Gallery, of students and pupils from the following institutions:

1. Jogoo High School, Narok South Constituency, Narok County;
2. AIC Chebisaas Girls High School, Moiben Constituency, Uasin Gichu County;
3. Pures Students, State House Nairobi, Westlands Constituency, Nairobi County;
4. Bungoma DEB School, Kanduyi Constituency, Bungoma County.

They are all welcome to observe the proceedings in the National Assembly this afternoon. Next Order!

## STATEMENTS

**Hon. Speaker:** Hon. Gideon Keter.

**Hon. Gideon Keter** (Nominated, JP): Hon. Speaker, pursuant to Standing Order 43, I seek leave of the House for the purpose of making a Statement regarding the celebration of international youth day scheduled for 10<sup>th</sup> August, 2018 in the National Assembly Chambers.

Hon. Speaker, I wish to inform the House that I represent the National Assembly as a member of the Steering Committee set up by the Cabinet Secretary of Public Service, Youth and Gender Affairs to coordinate the commemoration of the International Youth Day. This is a day to mark the youth in our society and their role in nation building.

Hon. Speaker, the theme of this year fete is "Save Spaces for Youth". This theme resonates well with the Government's commitment to ensure that the youth are accorded a platform to engage in meaningful discussion with stakeholders so as to better its service delivery to the youth. It is worth to note that the youth need to be engaged in the Big Four discussion so as to ensure that the Government policies are inclusive to the youth who constitute a big chunk of the population. This will offer an opportunity for both sides and others to engage and develop a clear roadmap towards the realisation of a youth friendly society.

Hon. Speaker, it is for this reason that I seek for your indulgence to make an appeal to Members of this House to sponsor, at least, two youths – a male and a female – from each constituency across the country, to come and celebrate the aforesaid event to be held on 10<sup>th</sup> August, 2018 at the National Assembly Chambers.

Finally, Hon. Members, let me thank you for your commitment towards ensuring that the International Youth Day is not only a success, but also the start of a journey towards making Kenya a youth-friendly society.

**Hon. Speaker:** I hope every Member has heard the appeal made for you to sponsor, at least, two youths from your respective constituencies. They will come into the Chamber on that day as youths to discuss matters of concern to them, which could also impact on others whom you represent. Hon. Keter is making that special appeal. I also want to advise Hon. Keter to begin lobbying Members individually to assist you, having made the appeal publicly.

Let us move on to the next Order.

## CONSIDERATION OF REPORT AND THIRD READING

### THE COPYRIGHT (AMENDMENT) BILL

*(Hon. Hilary Kosgei walked in the gangways)*

**Hon. Speaker:** Member for Kipkelion West, could you take your seat?

Hon. Members, debate on this Bill was concluded yesterday and what remained was for the Question to be put and to proceed to the other processes.

*(Question put and agreed to)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to move that the Copyright (Amendment) Bill (National Assembly No.33 of 2017) be now read the Third Time.

I do not see the Chair of the Departmental Committee on Communication, Information and Innovation and so, I will request the Chief Whip of the Majority Party--- He is there. He has also been displaced as a result of what is going on in the Mau.

*(Laughter)*

I ask Hon. Kisang, the Chair of the Departmental Committee on Communication, Information and Innovation to second.

**Hon. William Kisang** (Marakwet West, JP): Hon. Speaker, I rise to second that the Copyright (Amendment) Bill (National Assembly Bill No.33 of 2017) be now read a Third Time. I thank all my colleagues for taking the time to go through the Bill and discuss it in this House.

I beg to second.

*(Question proposed)*

**Hon. Speaker:** Let us have Hon. Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Speaker. I support that this Bill be read a Third Time. This is an extremely important Bill and it should be an Act of Parliament. Many of our artists and musicians do a lot of work, but they never see the benefits. If this Bill becomes an Act, it will help them. We went through it and we noted that it may still need some work. Like we said yesterday, the definition of “dramatic works” needs to be put in place and some of the structures like the CEO of the small organisations also need to be looked at.

With that, I support the Bill.

**Hon. Speaker:** Having confirmed that there is more than sufficient quorum, I will put the Question.

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

Next Order!

**MOTION****REPORT ON THE VETTING OF NOMINEE FOR APPOINTMENT AS CHAIRPERSON  
OF THE SALARIES & REMUNERATION COMMISSION**

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Speaker, I beg to move the following Motion:

THAT, taking into consideration the findings of the Departmental Committee on Finance and National Planning in their Report on the Vetting of the Nominee for Approval as Chairperson of the Salaries and Remuneration Commission (SRC), laid on the Table of the House on Wednesday, July 25<sup>th</sup>, 2018, and pursuant to the provisions of Section 11 of the Salaries and Remuneration Commission Act, this House rejects the appointment of Dr. Ben K. Chumo as Chairperson of the Salaries and Remuneration Commission.

*(Applause)*

As the House is aware, the Communication for the vetting of Dr. Chumo was relayed to the House by His Excellency the President on 27<sup>th</sup> June 2018 and, subsequently, the nomination was relayed to the Departmental Committee on Finance and Planning for the purpose of vetting. As required by the Standing Orders and Sections 8 and 9 of the Public Appointments (Parliamentary Approval) Act, the Departmental Committee on Finance and Planning was required to approve or reject the appointment of this nominee within 14 days.

As you are aware, the House went on recess and, therefore, this Committee applied to your office for approval of extension of the appointment of this nominee because the stipulated time was to expire during the recess period. Your Office subsequently approved the extension. I want to report to this House that the extension expires by the end of tomorrow, 26<sup>th</sup> July 2018.

The Members of the Departmental Committee on Finance and Planning felt that they were unfairly attacked not only by the public and the Press, but also by Members of this House. The attack made it seem like it was wrong for the Committee to vet the nominee. I want to bring to the attention of this House that the National Assembly, through its Committees, is mandated to vet nominees to various posts.

Vetting means approval or rejection of a nominee. There is no other way of doing it. You need to follow the process of convening meetings, calling the nominee, interviewing him and then come up with reasons for taking one decision or the other. During the process of vetting, there were a lot of calls and interferences. I want to ask for protection of other committees from the Speaker which will face the same situation. There is a kind of harassment which we faced, and which is not good. It interferes with the process of this House. We must do our job without interference.

*(Applause)*

It does not matter what kind of recommendation we bring to the House because the final say is in the National Assembly. Whatever report which comes to this House, the Members decide whether to approve or reject it and make any kind of amendment. The Constitution vests the power on the Floor of the House. Therefore, I want to put it on record to all Kenyans that the

Departmental Committee on Finance and National Planning will do its work without fear or favour.

**Hon. Speaker:** There is a point of order from the Leader of the Minority Party.

**Hon. John Mbadi** (Suba South, ODM): Hon. Speaker, I am aware that the Chairman of the Departmental Committee on Finance and National Planning is moving a very important Motion. He has made a very serious allegation that requires substantiation. When a Chairperson of a Committee says that the Committee is being interfered with to the extent that it becomes a significant issue to be raised here, it raises a lot of questions. Kenyans will ask and seek to know who is interfering and harassing Members. It must be someone who is senior. In order not to allow this allegation to go and allow speculations to fly around in form of rumours, I hope it is in order for me to ask the Chairman of the Departmental Committee on Finance and National Planning to substantiate his allegations. He should tell us who is interfering with the work of the Committee of the House.

Thank you.

**Hon. Speaker:** Hon. Limo, it will be fair to let the House know the kind of interference the Committee is facing because it amounts to derailing the processes which are clearly provided for in the House.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Speaker, if you followed my statement very clearly, I have stated that there was a general attack on the Committee which came from different corners. At some point, there was a general feeling on the part of the public, but it was very unfortunate that the Members of this House were involved. I will not dwell on names. There were so many interferences, including from the Members of the Committee.

I just want to put it on record that we followed the law. The law requires that we have a meeting, interview the nominee, come up with a report and table it in the House, and then it is moved as a Motion. I am moving the Motion now and then the House will decide whether to approve or reject the nominee. There were several attempts in the media to interfere with the work of the Committee. Several people wanted the Committee to have a predetermined approval.

I want to go to the Report.

**Hon. Speaker:** Hon. Junet, what is your point of order?

**Hon. Junet Nuh** (Suna East, ODM): Hon. Speaker, is the Chairman in order to say that there was interference even from his own Committee and other quotas? This is the plenary but not the Committee. The general public wants to know what happened. It is a very weighty matter. This man was nominated to be the Chairman of the Salaries and Remuneration Commission (SRC). He is not a small man. Let the Chairman substantiate this interference or withdraw his remarks.

**Hon. Speaker:** Hon. Limo, you know those are rules. You must be held accountable for the accuracy of your statements. If you say that there was interference from the Members of the Committee and many quotas and you are not naming them, you leave the public and everybody else wondering who was interfering with the work of the Committee and the nature of the interference. You need to specify the kind of interference and the levels.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Speaker, I want to allay any kind of fears that there was interference from a senior person. There was a general feeling in the public. You are aware that the public believed that this House had already approved Dr. Chumo. I want to state very clearly that we are following the law. There was no approval without the approval of this House. It was predetermined that this particular candidate was already approved. I want to

allay the fears, so that the public will know that this House follows the law. There is no way Dr. Chumo can be approved without passing the process which we are undergoing now.

I want to go straight to the Report. Dr. Chumo appeared before us on Monday.

*(Loud consultations)*

His name is almost similar to mine even in terms of the number of letters. Therefore, Members feel as if I am talking about Hon. Limo and not Dr. Chumo. This is Dr. Chumo. I am not a doctor. Therefore, I am very different from Dr. Chumo.

His nomination was presented to this House by His Excellency the President. This name was subsequently forwarded to the Departmental Committee on Finance and National Planning. He appeared before our Committee on Monday, 23<sup>rd</sup> July 2018. We interviewed him. This nominee is a Kenyan citizen.

**Hon. Speaker:** Member for Sirisia, you are in the House. Look at the Member who is contributing. You want to enter the House and stop a bit like somebody who is doing some jig.

*(Laughter)*

**Hon. Joseph Limo** (Kipkelion East, JP): Dr. Chumo is a Kenyan citizen who was born in 1956 in Uasin Gishu. He is a member of the Institute of Human Resource Management. He holds Doctor of Philosophy (PhD) in Human Resource Management. He has worked in Kenya Power and Lighting Company (KPLC) for over 30 years. He was in the Human Resource Department most of the time. He rose to the level of Chief Human Resource Manager. He ascended to the position of the Chief Executive Officer (CEO) in KPLC in 2013 where he served up to January 2017 when he retired. He was cleared by Kenya Revenue Authority (KRA). He is tax compliant. He was also cleared by Higher Education Loans Board (HELB). He is the current Chair of the University Council of Egerton University. He served as a CEO for three and a half years. During the interview, Dr. Chumo exhibited a lot of knowledge on topical issues. He also has adequate academic qualifications. He has a lot of experience in human resource management because he spent almost 90 per cent of his time in KPLC doing that work.

Therefore, in terms of suitability in qualification for this particular position, there was no question about that.

Hon. Speaker, I want to bring to your attention that as soon as the President forwarded the name of the nominee to this House, a question on integrity of the candidate arose. He was arrested by security organs and was charged in court. Therefore, on that particular issue, we found that he does not qualify in terms of the requirements of Chapter Six of the Constitution, which touches on leadership and integrity. Other than that, he had never been dismissed in any public office in contravention of provisions of Article 75 of the Constitution.

Before I conclude, on the issue of being arrested and charged in court, you will find the explanation he gave us in the Report. Let me touch on it a bit. His arrest was the source of all the attacks. Some of us do not know Dr. Chumo. I have never dealt with him before. But on the issue of being arrested, there was a lot of bashing, including from our Members. I remember before we went on recess, we had an Adjournment Motion here where we talked about members of the public and Members of this House being arrested especially on Fridays, and brought to court on a Tuesday. They ensure that you sleep in a cell on Friday, Saturday, Sunday and Monday. Dr. Chumo was spared. He was arrested and taken to court. The problem we have is that we must



protect the integrity of the House. When we talk about an issue, we should not be seen to be talking about an issue when it touches on Members and leave the members of the public exposed. There will be a time when a member of your family will be arrested unfairly. That does not mean they are criminals.

I want to go on record that the Committee noted that the nominee exhibited good professional, academic qualifications and experience to serve as the chairperson of the Salaries and Remuneration Commission. He has impressive knowledge on topical issues touching on human resource which could have been invaluable in discharging the functions of the chairperson of SRC.

The Committee also noted however that the nominee did not meet the requirements of Chapter Six of the Constitution and the Leadership and Integrity Act by the fact that he was on 16<sup>th</sup> July 2018 charged in the Anti-Corruption Court in Case No.26/18, The Republic of Kenya vs Chumo and 14 others.

The Committee further noted that the nominee being a public servant and having been charged for corruption and economic crimes had neither relinquished nor stepped aside from the position of Chairperson of Egerton University Council.

Further, the Committee considered how provisions of Section 62 of the Anti-Corruption and Economics Crimes Act would affect the nominee as it requires that a public officer who has been charged with economic crimes should be suspended. Therefore, on this particular nominee, even if he was to be approved and probably appointed by the President, it would have been difficult for him to take up this position because this particular law will not allow him to take the position.

Therefore, based on the above issues, the Committee is of the view that the nominee is unsuitable to be appointed as the Chairperson of SRC.

In conclusion, at the end of the vetting process, the Committee made the following recommendation: Having considered the suitability, capacity and integrity of the nominee and pursuant to Article 250 (2) of the Constitution, Section 5 and 7 (11) of the Salaries and Remuneration Act, No.2011 and Section 8 of the Public Appointments (Parliamentary Approval) Act No.33 of 2011, the National Assembly rejects the nomination for the appointment of Dr. Chumo as the chairman of the Salaries and Remuneration Commission.

Thank you. I thank the Office of the Speaker and that of the Clerk of the National Assembly for having supported the Committee in discharging its duties. I also equally thank the Members of the Departmental Committee on Finance and National Planning for the tremendous work they did despite the short time we had. I request Hon. Ndirangu, the Vice-Chair of the Committee, to second.

**Hon. Speaker:** Hon. Waihenya Ndirangu.

**Hon. Isaac Ndirangu** (Roysambu, JP): Thank you, Hon. Speaker. I rise to second the Motion in rejecting the nominee for the position of Chairperson of SRC. To expound further what my Chairman has said, Kenyans are asking where the Directorate of Criminal Investigations (DCI) and the Ethics and Anti-Corruption Commission (EACC) were when the President was presenting the name of this nominee to Parliament; knowing his history. Why did they not take time to investigate the nominee? I assure Members that our Committee is up to the task. We have vetted the nominee and found him to be below integrity levels required for the holder of such an important office.

I also hasten to remind Members and the public that the vetting process is not an event. It is a process where the nominee is required to come before us, present his credentials so that we

investigate and to present to Kenyans fairly and freely our findings to support our decision. It is also important to remind Members that, according to the Public Appointments (Parliamentary Approval) Act of 2011 Section 9, if we had not moved to vet the nominee, if we had boycotted as some quarters were suggesting, the nominee would have automatically become the Chair. That is because in one way or the other Parliament, must reject or approve. Therefore, we were in a catch 22 situation.

There were some people who were expecting us, perhaps, to mistreat Ben Chumo or to create a lot of drama and theatrics. But the law requires us to maturely and decisively ensure that nominees presented to us are asked questions as per the Act. The Act lays down the procedure, and even the sample questions in the Schedule, on how we should vet. We have no apologies for having sat down to vet the nominee. We have been up to the task. We have deeply vetted the nominee, and we invite Members to discuss our Report and support us in rejecting this nominee. However, we must send a word to the Ethics and Anti-Corruption Commission (EACC) and the Directorate of Criminal Investigations (DCI) to make sure those nominees who are presented to the President or Parliament are as white as snow. That is because the work expected of them, of serving the nation, is important. We ask them that, as the institutions which have been mandated by the Constitution, they must live up to the expectations of Kenyans in terms of making sure that they investigate nominees to great depth and know what kind of personalities are being nominated for public appointments.

With those few remarks, I beg to second.

**Hon. Speaker:** Order, hon. Members! Take your seats.

*(Hon. Charles Kilonzo stood up on the Aisle)*

Member for Yatta, you have just walked in now and you are loitering all over. Now you will have to stand there.

*(Question proposed)*

**Hon. Speaker:** Hon. Members, it is good to express yourselves. Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, at the outset, I thank the Chairman of the Departmental Committee on Finance and National Planning and his Committee for making sure that they have lived to the reading of the Ethics and Anti-Corruption Act, Section 62. This House cannot be used as a place to sanitise people who have appeared before the anti-corruption court – a competent court in this country.

There are people who are trying to connect Ben Chumo to the President. Ben Chumo went through a competitive process. The President was given some names. As per the Act, the President submitted the name of Ben Chumo to Parliament. What happens between the time the President submits the name to the time when this House, as a plenary, approves it, is none of the President's business. The President, for example, can send you here as a nominee for ambassadorial position to Saudi Arabia. In between, if you are involved in a rape case and that country or Parliament rejects you, it is none of the business of the appointing authority.

I saw people saying that the President should have withdrawn the name. That is not the case. What has haunted Ben Chumo is his history – how he worked with the contractors. Whether he has “eaten” big or small, he is paying for crimes that he committed when he was at

the Kenya Power Company. The Departmental Committee on Education and Research should go further and summon the Council of Egerton University and ask, in accordance with Section 62; that Ben Chumo be suspended as the Chair of the University Council. I said it in this House that we either fight corruption properly or we do not fight it at all. We should not play games. Corruption does not concern your ethnic background or your religion or the region you come from.

When a Cabinet Secretary (CS), a Principal Secretary (PS) or a parastatal CEO is taken to court, the next thing that the appointing authority does is to ask them to step aside. We have been challenged as the Legislature, the Judiciary and the Executive – that, all of us must join the President in the war against corruption. More so, we must protect the integrity of this House. We have been called *m-pigs*. The matter we are dealing with is serious. It is not about the Office of Ombudsman or even the Kenya National Human Rights Commission (KNHRC). It is the Chair of the Salaries and Remunerations Commission (SRC).

**Hon. Speaker:** Leader of the Majority Party, let me just interrupt you because we are still discussing these matters of integrity. Earlier, the Leader of the Majority Party stood in his place and claimed that he sent a petition, on behalf of the deaf community. Sometimes, when we say some of these things, we must be very clear because the sword must cut both ways. This is the information. The Petition was forwarded to the Committee in good time, and the Director of Committee Services informed the Committee immediately. It is confirmed that the Table Office submitted the Petition on the same day it was presented to the House.

Hon. Wario, earlier on, we were bashing the Table Office but this is the information. I just thought it was important because the Leader of the Majority Party raised the issue of integrity. We must also not blame our staff unfairly. If the lead clerk of your committee has not communicated to your committee, he must answer questions as to why. If it was not brought to your attention or to the Chairman's Office - it is given to the in-charge of the particular committee – the in-charge of that committee is at fault. Hon. Wario, just a word.

**Hon. Ali Wario** (Bura, JP): Thank you, Hon. Speaker. We have had a number of meetings and we have dealt with a number of petitions. I still stand with the same statement I made earlier. This Petition has not been brought to my attention or to the Committee. Maybe, it is still with the clerk of my Committee. I am sorry for condemning the Table Office. If truly that report is with the clerk, the clerk has not brought it to our attention. We rather deal with him. I apologise to the Table Office.

**Hon. Speaker:** Indeed, very soon, we are going to come up with proposals in our staff appraisals. We want to hear how committees rate the staff that serves them. We cannot be promoting people if they are sleeping on their jobs. It is absolutely important that there must be some marks to be awarded on the basis of what the committees feel about the staff who serves them. Very well, Leader of the Majority Party, you may proceed.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, the staff of Parliament should be on contract – contract that is based on performance appraisal so that we know we have men and women who are academically and physically fit. What is before this House is the vetting Report on the nominee for the Chair of SRC. Members who were in the 11<sup>th</sup> Parliament and even the 12<sup>th</sup> Parliament know how we have been reduced in terms of leadership scales in this country. For what Parliament went through under Sarah Serem, God is great that I have another opportunity to vet and discuss Sarah Serem. She did not know that she would one day look for a job that will need the vetting.

*(Applause)*

As the Chair of the Parliamentary Service Commission (PSC) and I am sure my Deputy, Hon. Jimmy Angwenyi, was a member of the Commission and Hon. Keynan is a Commissioner. The number of trips was... When that Report is brought to the Plenary, I will have an opportunity. The Chair of the Departmental Committee on Defence and Foreign Relations cannot gag me. He has purported to gag me. I am not going to be in the vetting but, I will have the last laugh as a Member for Garissa Township. In the worst case scenario, if this House will be voting, I will abstain. Let us jog our memory on when this Parliament came into being. Sarah Serem who was the Chairperson of SRC issued advisories!

*(Loud consultations)*

I am making reference to the previous Chair. For you to discuss the current chairperson, you must discuss the institution.

**Hon. Speaker:** Hon. Members, just on a point. There are many of you who placed their cards for interventions immediately you walked in. I have noticed that your intention was to contribute. Those of you, who have placed your cards for intervention desiring to catch my eye to contribute to the general debate, please remove them. Those of you who wish to do interventions should do the right things. Let me read out these names: The Hon. Odhiambo Ochieng of Gem placed his card immediately he sat in. He came almost dancing as he walked in. I saw him. Immediately he walked in, he put his card on intervention. He possibly cannot have been intending to intervene on anything because he had just sat down. He needs to know normal contribution is not on the intervention slot. The next one is the Hon. Nyamita, Member for Uriri. Again, your card is on intervention. The Hon. Milemba Omboko, Member for Emuhaya, your card is on intervention. Even the Hon. Gikaria! This is why I have difficulties because all these cards are on intervention.

**An Hon. Member:** On a point of order.

**Hon. Speaker:** Hon. Members, I am reading what is on my screen.

*(Several Hon. Members raised their hands)*

I can see several of you trying to raise your hands, and I am wondering why those raising hands have not put on interventions. You have been blocked by those who have put their cards to contribute. I can see the table is at 13, but the screen only shows the first four.

**Hon. Moses Kirima** (Central Imenti, JP): *Off-record.*

**Hon. Speaker:** It is unfortunate that those who have put their cards on interventions have blocked others who may have wanted to intervene. I am sure it is not about intervention for Member of Gem though his card is on intervention. For the time being, because it may be a technical hitch, I have been seeing Hon. Milemba's card being on intervention all the time. I am sure he does not want to intervene on anything. I know you wanted to contribute.

Hon. Otiende Amollo, what is your intervention?

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Thank you, Hon. Speaker. I thank you because I had put my card on intervention but now I know why you did not see me. I stand on a point of order in respect of the contribution by the Leader of the Majority Party. The presentation

by the Committee was going on well and, we are going to contribute. But, there are three things the Leader of the Majority Party has said in his intervention that I think may not be in order.

The first one is that the Committee did not say they have found the nominee to have committed any crime. The Leader of the Majority Party says he is answering for crimes he committed. No court has found him to have committed the crimes either. Secondly, he says: "This is a serious commission. This is not the Chair of the Ombudsman." You will take judicial notice that I am the first and former Ombudsman. Is it in order for the Leader of the Majority Party to suggest that, as a constitutional commission, there are some chairs in these ones and that the Chair of the Ombudsman who we are going to vet next is a much lesser one in terms of consideration? But, more importantly, is it in order for the Leader of the Majority Party to anticipate debate on a presidential nominee which has not come to this House?

On those three things, I seek your guidance.

**Hon. Speaker:** Let us just do this: Let us all read our Standing Orders, particularly Standing Order No. 86. That is so that we just stick to the debate on this Report and vote on it so that we do not get off. I can see we are likely to get too many people excited and agitated. I can see the Member for Alego-Usonga is also getting very agitated. Hon. Atandi, do not worry, you will have a chance to contribute to the Report. It is the reason I agreed with many of you that we could put the Question as had been requested by the Member for Endebess, who has since left. Hon. Member for Kieni, what is your point of order?

**Hon. Kanini Kega** (Kieni, JP): Hon. Speaker, as you have clearly put and Hon. Junet said it yesterday, we are the House that makes the law in the country. We do not anticipate. In our own Standing Orders, as you have clearly put it, even proceedings of Select Committees should not be referred to. It is in our own Standing Orders. It is said that no Member shall refer to the substance of the proceedings of a Select Committee before the Committee has made its report available to this House. We saw it the other day; I think it was on Monday. The Leader of the Majority Party was commenting on the same issue that is seized by another Committee. We have also seen it that the matter that we are interrogating, the sugar issue, everybody has now become an expert in TV shows, in funerals and all manner of things and yet, the Committee has not made its Report to the House. We have said we are a House that believes in the rule of law; we should also follow the rule of law. I think the Leader of the Majority Party is out of order!

*(Applause)*

**Hon. Charles Kilonzo** (Yatta, Independent): *Off-record.*

**Hon. Speaker:** Now, who speaks for half a second? Member for Yatta, did you say "half a second?"

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Speaker, that was a figure of speech. It is on the same Standing Order. Is the Leader of Government Business in order? First, he is the Government. He is the image of the Government, the Executive arm which is appointing those people. To threaten a nominee who has been appointed by the same authority whom he serves and instructing members of the Departmental Committee on Defence and Foreign Relations to be ruthless and to punish her is to make this House look like that of people who have vendetta; people who are very cheap. Is it in order for the Leader of the Majority Party to portray us as very petty people?

**Hon. Speaker:** Hon. Members, I did draw your attention to this issue yesterday and on Standing Order 86, but for the avoidance of doubt and so that the Member for Yatta henceforth

refers to the Leader of the Majority Party by his correct title, I also want to refer you to Article 108 of the Constitution. I know the Member for Yatta is beholden to the old days. I do appreciate he has not wanted to change a lot about what he knew in the past, just like Hon. Wafula Wamunyinyi is beholden to the old prayer that used to be said before the 10th Parliament. Please, make reference to Article 108 and you will be able to refer to the Leader of the Majority Party and the Leader of the Minority Party by their correct titles. It is found only in the National Assembly, under Article 108.

Proceed.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I have not taken the mercury sugar and so, I am very sober. Two, I am not a lawyer representing any of the purported people facing the courts, like Hon. Otiende Amollo. I have only one job and that is the job of Member for Garissa Township and the Leader of the Majority Party.

Let me not use names but institutions. You have even mentioned an Article of the Constitution which Hon. Otiende Amollo, when he was working for the Committee of Experts (CoE), created and the people of Kenya agreed with them. The Article creates the positions of Leader of the Majority Party and the Leader of the Minority Party. The Chairperson of SRC then, and even till today, does not recognise that position. They treat the occupants of those two offices and even the Whips just like any ordinary Members of Parliament. That is a fact. Now we have an opportunity, as Parliament, to deal with the matter of the composition of the men and women who will serve in SRC. Even when KDF, TSC, and the Judiciary nominate men and women, this House has an opportunity to vet those nominees. We have an opportunity to say what the law says.

There is a Bill before this House, which was read the First Time yesterday, on the pecking order. Today, if you ask SRC something about the pecking order, you will be told that a Member of Parliament is number 48 in the pecking order. Who placed Members of Parliament at number 48? It is SRC. In fact, they were biased towards dealing with other arms of Government. The way they dealt with Parliament is different from the way they dealt with the Judiciary and the Executive. So, let us not speak for the tribal cocoons or regions we belong to. Let us do the vetting as per the law.

I have nothing against Ben Chumo, but I was not part of the case he is facing in court. In as far as the case he is facing in court... I am not a lawyer. I have no law firm. If he is paying some lawyers, you can only defend him in a court of law and not in the Chamber. Section 62 of the EACC Act disqualifies him. Hon. Speaker, you chair the Committee on Appointments. In the Act, the three criteria we use to vet an individual are qualification, experience and integrity. That is why relevant committees of this House, and it is in the report, give EACC an opportunity to write a confidential letter on a nominee. The DCI and the DPP must clear a person. Even if you did not pay your university loan, this is the opportunity to be asked: Were you a recipient of HELB loans? Yes. Did you pay? That is why KRA is given an opportunity to tell Parliament about your tax compliance. So, if the EACC and the DCI have indicted Ben Chumo, this House-- - He is facing a criminal case in a competent anti-corruption court. This House has no business. Our hands are tied. Ben Chumo, you float in the sea and look for a lifesaver. This House cannot save you.

Finally, you know Hon. Charles Kilonzo was with us in the 10th Parliament, when there were ministers here. The Minister for Interior used to sit here. The Minister for Finance, like Amos Kimunya, used to sit here too. So, if you did not pay allegiance to them, you would not get resources in your constituencies. We used to beg ministers at the lounge. This is a different

Parliament. This is the 12<sup>th</sup> Parliament. We make our budget. Because he was not in the 11<sup>th</sup> Parliament, he does not know what we went through under SRC. He comes from a very privileged background. If your father was a Commissioner of Police during Moi's time, you do not need per diem. You are from a very rich background, but some of us our fathers were not even chiefs. The little resources we get from Parliament are what make us to come back. We go to our constituencies every week, but Charles Kilonzo can even fly. The sons and daughters of poor people should speak. The peasants should be allowed to speak. If your father was privileged, please, give us a break. We want a hustler nation to prosper.

Finally, I want to thank Hon. Limo, because people do not know that he comes from the county where the nominee comes from. So, in talking, people did not understand. He had to convince his voters of the reasons. People should not harass Hon. Limo. He has tried, because politics is local, however bad your guy is. Everyone knows that. If he was not the chairman of the committee, he could have just kept quiet. But now that he is the Chairman, he has to move a Motion that will deny one of his constituents a job. Since he is a very competent Chairman, we agree with him. We have nothing against Ben Chumo. He happens to be in the wrong place at the wrong time. His name came to Parliament when he has an active case before a court of law. I am sure the moment he clears his name and the President gives him another opportunity, this House will approve his name. So, lawyers, please, go and help Chumo. But when you enter the Chamber, you are a Member of Parliament. Even the Speaker used to be a lawyer, but right now he does not defend law firms.

Hon. Speaker, I beg to support the Committee.

**Hon. Speaker:** Hon. John Mbadi. I think it is fair to keep reminding ourselves, because I have seen the Member for Alego-Usonga feeling extremely agitated, that he should have been the next one. But, unfortunately, that same Article 108... Just look at it and hold your horses. Hon. John Mbadi.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. He will be voted back again and again and probably he will get an opportunity when some of us will be grandfathers in the village. He will have his time.

I rise to also support the Committee in its Report which rejects this nominee. I am particularly happy and want to say that those of us pushing the Committee not to vet that candidate were wrong.

*(Hon. (Ms.) Gathoni Wamuchomba kept criss-crossing the Floor)*

**Hon. Speaker:** Order. This Hon. Member, look at the way she is moving around. I am told that you were in some other institution before joining the National Assembly. This is the August House. You do not move from there, cross this way and you want to keep crossing the Floor. Where are we?

Hon. Nakara, just pick her and take her out because she appears to be walking out. Let her allow us continue with business.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. I had started by saying that there are those of us who were pushing the Committee not to even vet the nominee but I want to disagree with them because part of the vetting is for record purposes. In future, similar appointments and nominations may come and the future Parliament should benefit from precedence that we are setting; that if a Member who has been nominated has issues such as

what Dr. Chumo has, then that appointment will be rejected. So, we are setting a precedent here that the vetting includes analysing whether the person qualifies.

I started by saying that I am particularly happy because our Constitution is working. The people of Kenya decided to give the responsibility of nominating Chair of the Salaries and Remunerations Commission (SRC) to the President - that is the Executive. However, the vetting of the same and approval was given to Parliament and later the appointment would be done by the President. Therefore, Parliament is exercising its right responsibility and role of vetting and approving the nominee by the President. So, if we reject the nomination by the President, it clearly indicates that institutions that the people of Kenya gave to themselves are working.

I know that people have been asking why the name was forwarded to Parliament with all the issues around the nominee and that the President should have been advised. Yes, investigations have been going on for a while and so, this information should have been with the various agencies such as National Intelligence Services (NIS), Director of Criminal Investigations (DCI), the Ethics and Anti-Corruption Commission (EACC) and many other institutions that have the responsibility of doing background checks. Probably, what we may need to ask the President and not ask him to respond to us but just take note of, and those around the President, that there is need for proper background search and check before any nominee is forwarded to Parliament so that the time of Parliament is not spent in vetting and trying to approve someone who has a lot of integrity challenges.

We are aware that it is us who developed this rule; that before a nominee is approved for appointment to a State office, we must get confirmation about that person from the EACC, DCI and other state agencies. That, therefore, means that even someone who is under investigation, not even charged in court, should not ordinarily be approved for appointment to the State office. Therefore, a case where it is even in the public domain that the nominee has not only been investigated, but prosecution has been recommended against him and the Director of Public Prosecutions (DPP) has gone ahead to have him arrested and taken to court and the matter is in court. How then would anyone imagine that, that person can hold a State office? Therefore, the issue of nomination of Dr. Chumo is clearly, and without any contradiction, had to be rejected. If I were him, if he was a man of high integrity, he would have appeared before the Committee and told them thus: "I would like to excuse myself from this vetting. I want to decline the nomination until I have sorted out my case in court and then, if the appointing authority finds it fit to give me another appointment, I would gladly take."

But the fact that that he came and tried to defend the indefensible to me is a reflection of a person who has no seriousness with integrity issues.

Hon. Speaker, the other issue that has been raised here is regarding another position that he is holding. As far as I am concerned, and I think this is the law, the person stands suspended. Once you have been presented to court with a case on economic crime, you stand suspended from any public appointment. If, in any case, the management of Egerton still purports to have him in their Board, to me, they will be surcharged because their time will come. I hope they are watching and will hear this very clearly; that the Auditor-General will take action on them and the Public Accounts Committee of this Parliament will surcharge them. So, that is very clear.

As I conclude, let me talk about SRC and probably speak to the appointing authority. That the Chair of SRC... We need serious consensus because we do not want a Chair of SRC who is going to treat some State officers with a condensing attitude. I want to put it on record that it was very demeaning for the previous SRC to refer to Members of Parliament (MP) as having qualifications equivalent to cleaners. The fact that we have come to represent our people



does not make us less educated. We are educated and senior. It is interesting, although some of us were raising points of order, it is good for some of the people who thought we have very low responsibility will soon come to face the very people they thought are very junior, so that they can know that we are not junior. I heard members of the SRC say that they cannot easily evaluate our roles. They cannot understand us in the Pecking Order.

Someone whom you can go to seek employment, you must know that, that person is seriously senior. This is the right time for those people... I am not going to mention names because I may rattle some people. It is music to my ears that some of the people who thought that we do not have powers are soon going to realise that we actually and truly have powers even to give them jobs. If we said we are not giving them jobs, they will not get the jobs.

**Hon. Adan Keynan** (Eldas, JP): On a point of information.

**Hon. John Mbadi** (Suba South, ODM): Hon. Speaker, Hon. Keynan is my senior and he wants to inform me. I cannot reject information from someone who has been in Parliament for four terms.

**Hon. Speaker:** Very well, since you have accepted the information---

**Hon. Adan Keynan** (Eldas, JP): Thank you, Hon. Speaker. Thank you Hon. Mbadi for allowing me to inform you that, indeed, the power of the Kenyan people lies with the electorate. In Article 121 of the Constitution, representation is equated to the sovereignty of the Republic of Kenya. To that extent, power lies with the elected representatives of the people of Kenya and so, you do not need to inform any other person. That is where you are today. Exercise your powers.

**Hon. John Mbadi** (Suba South, ODM): With that complementary contribution from Hon. Keynan, and I had said he has served one more term than I have served in this August House, I take that information very seriously. Those doubting Thomases and the people who do not understand the role of an MP out there will understand that we have a direct mandate from the electorate and that we exercise the sovereign power from the people delegated to us. We are only answerable to the people of Kenya.

Hon. Speaker, I thank the Committee and as I sit, I would like to add that I know and understand how the Chair of the Departmental Committee of Finance was at pains to explain why they rejected this appointment. I want to just urge those who are listening out there that this is not Hon. Limo's Report. He had very little contribution. This is a Committee's Report and they had no choice. The law is in black and white. You cannot approve the appointment of someone who is facing charges in court to become a State officer. I support the Committee's Report.

**Hon. Speaker:** Hon. Sankok, you have already pulled your table.

**Hon. David ole Sankok** (Nominated, JP): No! No! Thank you very much, Hon. Speaker. It is very true that this House was asked by the President to assist him in the fight against corruption when the names of individuals who are facing charges – in fact economic crime charges – in court came before a Committee of this House. It is right to reject their appointment so that all of us and those public officers can know that Parliament is very serious in the fight against corruption. It is funny that in other countries like what I heard in India when a train was involved in an accident, the Minister for Transport resigned.

In other countries, when you are mentioned in corruption cases, if you are a public officer you commit suicide. In Kenya, when you are supposed to be in the cells--- I do not know when Dr. Chumo got out. Probably he got out on bail and walked majestically to a Committee and told us that he needed the job. Actually, he gave us his credentials so that we can reward him for mismanaging public funds. This shows that we are not only immoral in this country but also do

not have integrity. If I were Ben Chumo, I would have walked into the Committee, excused myself and said because there are very many Kenyans who are also qualified, let me first of all clear my name in the court of law. I would have also said that let the law take its course, and if I am cleared I will be ready to serve again.

**Hon. Speaker:** There is a point of order from the Member for Kangundo.

**Hon. Fabian Muli** (Kangundo, Muungano): Thank you, Hon. Speaker. I rise on a point of order. This House is creating a very bad precedence because it is going against Section 62 of the Anti-Corruption and Economic Crimes Act. I am will cite Article 50(2)(a) of the Constitution which says that the accused or arrested is assumed innocent until proven guilty. If this House today cites Section 62, even we Members of Parliament will be targeted. We will be targeted in the sense that if somebody knows that you are seeking a job, you will get arrested and then we will be using this precedence which we are using against Ben Chumo. I want the Chair to be more factual and bring more facts to reject the nominee rather than use Section 62.

**Hon. Speaker:** You see you rose in your place claiming to be on a point of order but you just argued. The Member you interrupted had not said anything which is out of order. When you rise on a point of order, you must be pointing out to some disorder or threatened disorder by the Member speaking because you are now eating into his time and all that he wanted was to argue out some points. Nevertheless, you have been heard. I think you have now made your contribution.

Proceed, Hon. Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Speaker. From your experience, you are really protecting us because I was wondering how I was out of order. I have just given an example. I think the Hon. Member was not listening carefully. There was a train that was involved in an accident and the Minister for Transport in that country resigned. Was he the driver or the captain of the train? It is because of integrity; you just want to protect your name. We really have to uphold our integrity. So, I really support this Report and I urge the House that let us stamp our authority and make sure that we assist the Head of State in fighting corruption.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Shakeel Shabbir, the Chair of APNAC, you have the Floor.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Thank you, Hon. Speaker. I want to declare that I am a Member of the Departmental Committee on Finance and Planning. I am also the Chair of the African Parliamentarians against Corruption (APNAC). We have not accused Ben Chumo of any crime. We have said that the allegations that are there put a mark and raised a question. The position he is seeking demands that he should be beyond reproach. What do we mean by "beyond reproach"? Those who have not read the history of Caesar should know that they started slandering Caesar's wife that she did A, B, C. Caesar called his wife and she denied everything. She could prove it but Caesar said: "Because you are the wife of Caesar, you must be beyond reproach." This gentleman is not beyond reproach.

One thing we have not said here is the same gentleman has been charged in a court of law on a matter of procurement while he was the Chair of Egerton University. He did not disclose that and yet it is a fact. So, the situation is that this gentleman may be very intelligent and may have great academic qualifications but in a position that requires him to be beyond reproach, he does not qualify. He should be patriotic. He should have come and withdrawn his candidature.

I boycotted the initial vetting but I did not boycott the final sitting where we discussed whether we will agree or not. We felt that a situation like this requires a person who is cleaner. We also felt that the Executive let us down.

The Director of Criminal Investigations (DCI) was asked, through a letter, where Ben Chumo's name and ID number was given to give us their recommendation but they refused and did not send the recommendation. Instead they sent a letter asking for the ID number. We knew that the DCI which was charging him was not coming back to us to tell us it was charging him.

That is one. Another issue is that the same gentleman is beyond 62 years old. When we talk about issues like these, we have to look at what is in the papers and the minds of the people. We stand here for the integrity and ethics of this House, and as such I am today standing proud that the Departmental Committee on Finance and Planning insisted and agreed that ethics and integrity is required.

I know that the law requires certain things but this morning I got a very interesting example from you, Hon. Speaker, where you said if a judge is sitting and he is watching and somebody from his court shoots another person in front of his eyes, the judge cannot just immediately condemn him although the people in the court might say that they have seen him shot and he was killed by this bullet. There has to be a process.

However, when you are looking at a situation like this, sometimes we cannot make the judgement whether the person is guilty or not but at this moment in time, we take the gun away from him and put him under some sort of custody until we know what he is doing. This is what has happened. Mr. Ben Chumo should clear his name and when he comes back, we will give him the required support.

There is another case where the Executive has let down the President. There is nomination of a person as an ambassador to strictly Islamic country called Saudi Arabia and yet that person is not of Muslim descent. That person does not also know Arabic.

**Hon. Speaker:** Hon. Shakeel, those matters are not currently being considered. Ambassadors are not religious leaders and nobody is nominated to go to a mosque. He is there to represent the interests of the country. The Kingdom of Saudi Arabia has an ambassador to Kenya. He does not have to be a Christian because majority of Kenyans are Christians. If we begin looking at things this way, what are we doing?

In any event, there is no Motion like that before us. Hon. Members, Standing Order No.86 read together with Standing Order No.106 talk about relevance. I do not want to throw a Member out of the House on account of being irrelevant. It is disorder if you are repetitive and irrelevant. You can earn a few hours out of the House. Let us just stick to the Motion. I am sure you know this.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Hon. Speaker, I withdraw. Sometimes your juniors might do something and they have not really done their work. I withdraw my statement and I accept what you have said.

Members of Parliament should not be given such a bad name. The Members of the Departmental Committee on Finance and Planning put aside their personal differences. They have made us proud by rejecting this nominee. The gentleman in contention is not beyond reproach. He may be cleared but at this moment, he cannot be approved for the position of the Chair of the Salaries and Remuneration Commission (SRC) that he has been considered for because he is not beyond reproach.

I support the rejection.

**Hon. Speaker:** Let us have the Member for North Horr. He has taken off. Hon. Members I have the names here. Let us have the Member for Tigania East.

**Hon. Josphat Kabeabea** (Tigania East, PNU): Thank you, Hon. Speaker. My true name is Hon. Gichunge...

**Hon. Speaker:** It is not that I do not know the names. Do not introduce yourself, Hon. Kabeabea. When I say you are the Member of this constituency, it is not that I do not know your name.

**Hon. Josphat Kabeabea** (Tigania East, PNU): Thank you, Hon. Speaker. But I like it when you address me by my name.

**Hon. Speaker:** You may actually be surprised to know that the better practice is for the Member to be identified by the constituencies they represent. We just take the liberty to show that we also know you by your names.

**Hon. Josphat Kabeabea** (Tigania East, PNU): Thank you, Hon. Speaker. I rise to support that the nominee should not take the position because of the scandals that have been mentioned and have gone viral on social media and in the mainstream media.

One of the things that pain me most are the scandals that have gone on in the Kenya Power and Lighting Company (KPLC), one of them being the scandal in the billing system. At some point, I was given bills worth Kshs200,000 or Kshs300,000. You pay and they keep on increasing. The nominee is a scammer and is facing fresh charges.

I support that this House rejects his nomination as the Chair of the SRC.

**Hon. Speaker:** Let us have the Member for Kiminini.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Speaker. Looking at the qualifications of Hon. Ben Chumo, he has what it takes to be the Chair of the SRC. In terms of academic qualifications, Hon. Dr. Ben Chumo has a PhD in human resource management. The work of the SRC needs somebody with qualifications in human resource management. I have no doubt that this would have been the best Chair as far as the SRC is concerned.

The Public Appointments (Parliamentary Approval) Act has highlighted critical issues that we must look at when it comes to vetting. It is this House to decide whether Chumo will get the job or not; not even the Committee. This House has veto powers. Hon. Limo, who is the Chair of the Departmental Committee on Finance and Planning, has done a good job. Hon. Chumo comes from Uasin Gishu County which neighbours Trans-Nzoia which is my county. Hon. Limo does not come from that county. He comes from Kericho County. We must set the record straight. The Leader of the Majority Party had indicated that Hon. Limo comes from the same county as Dr. Chumo.

Dr. Chumo is my friend. He is somebody I have known in the profession. One time, I had an issue as far as electricity is concerned. To my surprise, he acted immediately and the issue was rectified. In terms of operations and work, he is very effective. Unfortunately, if you look at the criteria, you will find that it is a delicate balance that we must know how to manage. In terms of performance qualifications, he has what it takes. But when it comes to matters of integrity, we take an about turn. Article 50(2) of the Constitution talks about the principle of innocent until proven guilty.

Sometimes back on the Floor of this House, the name of Hon. Mututho, the then Chair of the National Authority for the Campaign Against Alcohol and Drug Abuse (NACADA) came here for vetting. The Committee had rejected his nomination. This Plenary reversed the decision and John Mututho was given the job. Hon. Speaker, I was on the Committee on Appointments

where you are the Chair. When we were vetting Ms. Kandie, the Cabinet Secretary for Tourism, the Committee at that time rejected her but the Plenary reversed the situation. As we move on, we need to do a delicate balance. Hon. Ben Chumo is academically experienced but there is also the matter of integrity. His Excellency the President had declared war on corruption. How I wish that his name had come earlier before the issues did.

Hon. Speaker, initially, I had a plan to bring an amendment. However, I have looked at the mood of the House and the sensitivity of the Salaries and Remuneration Commission (SRC). The responsibility of SRC is to do job evaluations. We know the disappointment we had with the previous Chairperson. It is very fortunate that His Excellency the President is leading the war against corruption and he requested Parliament to support him in the war against the vice.

The first victim is Dr. Ben Chumo. It is very unfortunate. He is a brilliant guy who has what it takes to fix SRC. Because of the mood of the House and the entire country, he will not be approved to the position of Chairman of the SRC by the National Assembly. We know that corruption in this country is a cancer. We tell Dr. Ben Chumo *pole sana*. After he finalises his issue in court, I am sure His Excellency the President will consider him for something else. So, I will not move the amendment that I had intended to bring because gauging the mood of the House, I can see that it is not favourable at all.

Hon. Speaker, we call upon His Excellency the President and the selection panel to do a background search before appointing persons. We have the National Intelligence Service (NIS). Why did they waste all this time? Why did they not do a background search? His name would not have come all the way to this place. It should have done its job and advised the President on this nominee.

This House is not a rubber stamp. Cabinet Secretaries (CSs) are vetted by this House but when they get into office, they become untouchable. When the last SRC did the job ranking, it was very disappointing. The Member of Parliament who vets the CS was given position 43 while the CSs were given, I think, position 3 or 4. Whoever will come to SRC must look at the job description of a Member of Parliament. He has the academic qualification and still he has to be subjected to *wananchi* for purposes of voting. That alone qualifies him to be given a very high rank. The CSs are not voted for.

A Member of Parliament is demeaned when he goes to the office of the CS yet we supervise them. This House can sack a CS and everybody else, including the President. As a matter of fact, the impeachment of the President is initiated in the National Assembly. So, whoever is in SRC should take note of that. I know they are watching. We are very disappointed with the work they have done. They must wake up because SRC is a very important Commission that must help harmonise salaries in this country and bring the wage bill to a manageable level.

It is unfortunate that Dr. Chumo has not been approved to the position of the Chairman of the SRC.

Thank you, Hon. Speaker. I rest my case.

*(Laughter)*

**Hon. Speaker:** The Member for Belgut, you have the Floor.

**Hon. Nelson Koech** (Belgut, JP): Thank you very much, Hon. Speaker. Hon. Chris Wamalwa has literally said what I intended to say. However, allow me to say that I agree with Hon. Limo's Report. As a House, let us be very cautious in future when such names come in.

When I was seated here, I questioned whether the Executive knew what it was doing

when it appointed Dr. Ben Chumo and Ms. Sarah Serem. We shall lose two people from my community. I do not want to speak as a Kalenjini but as a leader from one community.

Hon. Duale mentioned something here. He prepared the mood of the House. Even as Members go to the Departmental Committee on Defence and Foreign Relations, they seemed to have in their minds that the name of Ms. Sarah Serem should not appear.

**Hon. Speaker:** This Motion does not have that name!

**Hon. Nelson Koech** (Belgut, JP): I am trying to answer what Hon. Duale asked.

**Hon. Speaker:** We ruled that should not happen. It should be expunged.

**Hon. Nelson Koech** (Belgut, JP): It is okay, Hon. Speaker. This House has talked about precedence. In November 2013, this House approved Hon. Mututho when he had an active case in court. Why then do we want to seek a departure when it comes to Dr. Ben Chumo? That is what I am questioning. Let us view individuals on the basis of what they have done, their careers and what they can give to this country, but not on the basis of being selective in terms of the lenses we use to view people.

Dr. Chumo has gone through fire. Can you imagine being arrested on a Friday? I intend to bring an amendment to the Police Act in this House. Police officers arrest people on Fridays and hold them in police cells on Saturday, Sunday, and Monday. On Tuesday, they would purport to process your bond. You then appear in court or are released on bond on Wednesday, which is unfair. We have families. Dr. Chumo has gone through a lot. Sometimes it is very unfair for the Executive to come up with such a name and bring it to Parliament knowing clearly that the name will not go through. It is very unfair.

I rest my case and like Hon. Chris Wamalwa said, "There goes, Dr. Ben Chumo".

**Hon. Speaker:** Hon. Members, I suppose you are now beginning to think very well because you are saying that crimes which are committed on Friday or Saturday must not be pursued by the police officers. They can only work on Monday to Friday.

*(Laughter)*

Some of these things make very interesting listening and reading. I am not hearing this for the first time. It is one of those things that I believe the House will have an opportunity to debate on. What is your point of order, Hon. Kathuri, the Member for South Imenti?

**Hon. Kathuri Murungi** (South Imenti, Independent): Thank you, Hon. Speaker. I have been following this Motion keenly and up to now Members are repeating the same points. Every Member is repeating the same point as the other. There is a lot of business in the Order Paper for us to transact. Therefore, pursuant to Standing Order No. 95(1), I call upon the Mover of this Motion to reply.

*(Laughter)*

**Hon. Speaker:** You may not be the one to do it. I have heard you, but since I had already recognised the Member for Emuhaya, Hon. Omboko Milemba, let us give him a chance and then I will put your request to the Members to make a decision.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Speaker, for giving me this chance to contribute. The SRC is founded under Article 230 of our Constitution. The Commission was given the mandate to set and review the remuneration and benefits of all State officers and advise the national and county governments on remuneration and benefits of all

public officers. That is a job that requires somebody with great integrity, which Dr. Ben Chumo lacks. Earlier on, one of the speakers indicated that this is a job that requires one who is beyond reproach.

I want to congratulate the Chairman of the Departmental Committee on Finance and National Planning, Hon. Limo, because he began very well on Dr. Chumo. He indicated and, indeed, the House has been told that when vetting, we base our judgement on knowledge of the individual, experience and integrity among other things.

Hon. Speaker, as indicated by one Member who spoke earlier, the nominee, Dr. Chumo is 62 years having been born in 1956. Whether that should suffice or not to block his approval, we want to encourage that the youth be nominated also and get into the workforce. I would think that was already a limiting factor.

Dr. Chumo joined Kenya Power in 2013. When he joined, he actually doubled the electricity connectivity to many homes and industries. In fact, he moved the connections from 2.8 million households to 4.87 households. Unfortunately, most of those connections were illegal. Therefore, they ended up denying Kenya Power the revenue it needed. In fact, it is because of that that Kenya Power later on changed its rules to have pre-paid metering instead of post-paid. I am saying this so that we do not just divulge that he does not only qualify because of the fact that he is facing an existing court matter over corruption.

During Dr. Chumo's tenure at Kenya Power, he increased its debt to Kshs105 billion. I hope the Chairman of the Committee is listening to me. I know he has these facts. Originally the Kenya Power debt stood at Kshs42.8 billion. This was a clear indication of mismanagement of Kenya Power. Therefore, he does not qualify even if he were not being charged in court of law.

By the time Dr. Chumo joined Kenya Power, it was sitting on a cash base of about Kshs28 billion, but by the time he was leaving in 2016, Kenya Power had deteriorated and was only having a cash base of Kshs5 billion.

Lastly, the period Dr. Chumo was at Kenya Power, its efficiency ratio - these are researched facts - deteriorated to from 82.7 per cent in 2012 to 80.6 per cent. Therefore, in as much as we may feel that Dr. Chumo was qualified and had the experience, his experience at Kenya Power was not good. Even if he was not facing corruption charges he would still not qualify as the Chairman of the SRC. The SRC is a body that was created to look into the general remuneration of workers in Kenya. Coming from the trade union background, we require somebody who is beyond reproach and who can actually look into workers' interest and do a clean job without undue influence. Therefore, I strongly support the Committee on not qualifying the name of one Ben Chumo to become the Chair of SRC.

Thank you, Hon. Speaker.

**Hon. Speaker:** I will put the Question which was raised by the Member for Imenti South.

*(Question, that the Mover be now called upon to reply, put and agreed to)*

**Hon. Speaker:** Mover, you have the Floor.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Speaker, as I move to reply, Hon. Gikaria is really agitated. He wants to speak. He has convinced me to donate to him one minute.

**Hon. Speaker:** Do you want to donate to him one minute?

**Hon. Joseph Limo** (Kipkelion East, JP): Yes, Hon. Speaker. I also want to donate one minute to Hon. Atandi and another one to Hon. Katoo.

**Hon. Speaker:** That will conclude the matter. Yes, Hon. Gikaria.

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Speaker. I have a few things to say. It is very critical for us Chairs of Committees. Hon. Limo has alluded to the fact that there are some Members in the Committee... When a nominee is presented to the National Assembly, it is for a Committee to give a report and the House decides. But when some Members tell people not to come, then it does not help.

I also want to fault the Committee. They need to give us specific dates, for example, that Dr. Chumo was engaged in July, 2013 in order for us to understand what is before court. If it was a tender of 2011 and he came in 2013--- We need to know so that we can make a good judgement.

**Hon. Speaker:** The Member for Alego-Usonga, you have the Floor.

**Hon. Samuel Atandi** (Alego-Usonga, ODM): Thank you, Hon. Speaker. I would like to commend the Chairman of the Departmental Committee on Finance and National Planning who is also my Chairman for the excellent manner in which he has presented our Report. But, I want to observe that this issue attracted public attention. When Dr. Chumo presented himself before Parliament, I had the advantage of meeting him on the corridors. I could feel he was “smelling” a police cell. I began to think that this is a clear case of impunity. Can you believe a case of somebody who “smelling” a police cell appearing before an honourable House to be vetted?

As a Member of the Legio Maria Church, if Dr. Chumo was a member of our church, the House would have required him to be cleansed.

We have taken a precedence setting action. Everybody in the country who wants a public office must use this as a precedent that you cannot occupy a serious public office if you are a person who is below reproach and suspicion. Just like Caesar’s wife...

**Hon. Speaker:** Let us now hear Hon. Katoo.

**Hon. Katoo ole Metito** (Kajiado South, JP): Thank you, Hon. Speaker. I support the Report of the Committee. But in future, it is also good for us, as a House, to give nominees a fair hearing and follow due process because if we start making pronouncements even before nominees appear before respective Committees, it will not only be intimidation, but also be prejudicial. Some nominees may even resolve to withdraw from the process saying it is not going to be fair and orderly. As a precedent, I would like to urge Members that once the nominee has been committed to the House and to the relevant Committee, we need to abide by our Standing Orders and not refer to them either in the House or outside the House before the Motion is brought before the House.

Thank you, Hon. Speaker.

**Hon. Speaker:** That is absolutely correct. It is not fair. Let us give everybody a fair chance even if they smell like they have come from some place. I do not know how those who have come from Legio Maria Church smell.

Hon. Limo, it is your time.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Speaker, as I thank the Members who have contributed to this Motion, I wish to say for record purposes that the Departmental Committee on Finance and National Planning did what was expected of it. I want to inform the House, and particularly the Members who may be new in the House that when a matter is in the Committee, it is good that they retain that information in the Committee until the tabling of the report. That is when the public is informed officially. In this particular issue, there was no



memorandum whatsoever from the public to oppose the appointment of Dr. Chumo. It is only that particular issue of police arrest.

I also want to put on record the fact that the arrest was for the case which the Member for Nakuru Town East wanted to clarify. This matter was for procurement done in 2011/2012. Dr. Chumo was appointed in July, 2013. Therefore, the only thing which we picked as a Committee is that after receiving a report from a technical committee of Kenya Power in 2015, one, he suspended the continuous supply of those transformers which were faulty; two, he stopped the issuance of those transformers which were in store; and, three, he stopped payment to the supplier. He retired in January 2017.

Thereafter, the supplier went to court. The current management of the company pulled the case out of court and paid the supplier. So, the ones who were paid were also arrested. Particularly, we observed that the people who procured have not been arrested. So, for record purposes, we have to state that. We have to put it on record. This country cannot be managed by avoiding others and picking others. Yes, there is a case but we cannot say that this individual is guilty. The law is clear that when the case is in court, you step aside. He has not been appointed, and we have proposed that he should not be appointed.

Finally, this Committee cannot be intimidated by outsiders and all sorts of things. I just wanted to put that on record. On the basis that he has a case in court, we cannot recommend him to be appointed. We must stick to the law. This Committee is professionally run. We have men and women in the Committee who are competent to run it. We are proposing this on the basis of facts. We must put it on record so that you are informed. If we had not vetted this nominee, tomorrow, Thursday, will be the last day. I want to inform you that Section 9 of the law on appointments says that failure to vet and bring a report to the House to make a decision, Dr. Chumo would have been deemed to have been appointed by operation of the law. We would have failed. Therefore, we did what we were supposed to do. We have done our part and the House has done its part. What remains is for the House to decide through the Question.

I beg to reply.

**Hon. Speaker:** Having confirmed that the House has quorum, I now put the Question.

*(Question put and agreed to)*

ADOPTION OF REPORT ON VETTING OF NOMINEES FOR  
APPOINTMENT AS CAJ CHAIRPERSON/MEMBERS

**Hon. Speaker:** The Chairperson, Departmental Committee on Justice and Legal Affairs, Hon. Cheptumo, you have the Floor.

**Hon. William Cheptumo** (Baringo North, JP): Thank you, Hon. Speaker.

**Hon. David Gikaria** (Nakuru Town East, JP): On a point of order, Hon. Speaker.

**Hon. Speaker:** What is your point of order, Hon. Gikaria?

**Hon. David Gikaria** (Nakuru Town East, JP): Sorry, Hon. Speaker. I did not want to interrupt my brother, Hon. Cheptumo, the Chair of the Departmental Committee on Justice and Legal Affairs. As the Chair of the Departmental Committee on Energy, I need your guidance.

Now that we have just finished with the Motion that was on the Order Paper---

*(Loud consultations)*

**Hon. Speaker:** Hon. Members, the House has not risen. Even that shaking of hands is too loud. How can Hon. Kutuny walk in and shake hands as he consults loudly? Proceed.

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Speaker. I needed your guidance on the issue of the tender of the transformers and other issues within Kenya Power.

**Hon. Speaker:** Which tender?

**Hon. David Gikaria** (Nakuru Town East, JP): What was being referred to.

**Hon. Speaker:** I do not adjudicate tenders. Even at the Parliamentary Service Commission, I have no intention of adjudicating on any tender.

**Hon. David Gikaria** (Nakuru Town East, JP): Sorry, Hon. Speaker. I meant to say that as the Departmental Committee on Energy, we had picked up the same issue. Now that this matter is before court, we needed your guidance. Should we proceed or terminate the investigations? We had already started the investigations, as a committee. If, for example, we find the same issue, we are supposed to recommend to the DCI and the EACC to pick it up – a matter they have already picked up for purposes of prosecution. We will be making a request to your office to give guidance. In future, what happens to such cases? So, we are just seeking your guidance as to whether we should proceed or terminate the investigation.

**Hon. Speaker:** For avoidance of doubt, we need to appreciate one thing – committees of Parliament and indeed the House make recommendations. Even in instances where the committees stumble upon malfeasance in Government agencies and departments, they make recommendations to the House. Even if the House agrees, those recommendations could, among other things, be directing that a certain agency responsible for criminal investigations, corruption investigations *et al*, take up the matter. When a matter has already been taken up and is active in court, I will look with disfavour any report from a committee of this House purporting to be also investigating.

Where matters have already been taken up in court, what other investigations will we be engaging in? It will be a waste of resources. If the matter is one of those issues that are likely to be raised in court, even to sit and listen to any information or evidence would be prejudicial. You could prejudice somebody's defence or case from the prosecution.

The better position would be if it is the same matter and you are sure it is the subject matter of the criminal charge in court--

*(Hon. Alois Lentoimaga stood in front of the Speaker)*

The Member for Samburu, where were you in the 11<sup>th</sup> Parliament? Article 103 is on Members and the Chair. The Member for Nakuru East is the one who raised an issue but you come and just stand there as if you are in Samburu.

*(Laughter)*

I could see you were quite at home. You were already in Samburu, in the constituency.

*(Hon. Alois Lentoimaga resumed his seat)*

You are now doing the right thing.

I would advise that committees of the House really take great caution not to find themselves being cited. You invite a member to come before you and he comes and tells you: "I

am already before court. I do not know why you are wasting my time.” When you start saying the member is being rude to you, he says: “No. I cannot tell you anything. My divulging anything may compromise my own defence.” That person would be right. Is it not so? We should be fair. It cannot be that you are investigating a matter which has already been investigated by the people you are likely to recommend to investigate and have already taken action which you may recommend they take. When that action is going on, you are still investigating. Surely, we can use our man hours and resources better.

Hon. Gikaria, if that matter is the same in substance as those which are likely to come in that criminal case, perhaps, the best situation will be for you to stay, not to drop, any further engagement with the persons who are likely also to be called by the DPP or whoever to be witnesses. In fairness, we should have the interests of other Kenyans at heart even as we execute our respective mandates. The advice from me would be you stay further proceedings and not to drop. Await the result. If the matter is not covered by that other case, you can take it up. You can resurrect it.

Very well. Yes, Hon. Cheptumo.

ADOPTION OF REPORT ON VETTING OF NOMINEES FOR  
APPOINTMENT AS CAJ CHAIRPERSON/MEMBERS

**Hon. William Cheptumo** (Baringo North, JP): Thank you, Hon. Speaker. I beg to move the following Motion:

THAT, taking into consideration the findings of the Departmental Committee on Justice and Legal Affairs in their Report on the *Vetting of the Nominees for approval as Chairperson and Members of the Commission on Administrative Justice*, laid on the Table of the House on Wednesday, July 25th 2018, and pursuant to the provisions of Article 250(2)(b) of the Constitution and Section 11(7) of the Commission on Administrative Justice Act, this House approves the appointment of the following persons to the Commission on Administrative Justice:

- |                                 |   |             |
|---------------------------------|---|-------------|
| (i) The Hon. Florence Kajuju    | - | Chairperson |
| (ii) Mr. Washington Opiyo Sati  | - | Member      |
| (iii) Mrs. Lucy Kamunye Ndung'u | - | Member      |

Hon. Speaker, pursuant to the provisions of Article 250(2)(b) of the Constitution and Section 11(6) of the Commission on Administrative Justice Act, 2011 read together with Sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act No.33 of 2011, His Excellency the President, vide a letter dated 22<sup>nd</sup> June, 2018 nominated the persons I have mentioned, Hon. Florence Kajuju for position of Chairperson of the Commission, Washington Opiyo Sati who is a person with disability as a member and thirdly, Lucy Ndung'u as member of the Commission. On 22<sup>nd</sup> June, 2018, you, pursuant to Standing Order Nos.42(1) and 45(1) referred these nominees to the Departmental Committee on Justice and Legal Affairs for vetting.

Pursuant to the provisions of Article 118(1)(b) of the Constitution and Section 6(9) of the Public Appointments (Parliamentary Approval) Act of 2011, the Clerk of the National Assembly invited the public, through advertisement in the dailies to submit memoranda on the suitability of the nominees by way of written statements on oath.

I report to the House that after the expiry of the timeframe, there was no memorandum presented by the public in respect of two nominees that is Washington Opiyo and Ndung'u. But, there was a memoranda presented by a member of the public in respect of nominee for the Chairperson, Florence Kajuju. This memorandum was not admissible because, as required under the law, it should have been done under oath. It was just a communication, not even to the Clerk but the Chair of the Committee. It was also given to the Committee outside time – the deadline was supposed to be 9<sup>th</sup> yet it was presented to the Committee on 10<sup>th</sup>. So, on the basis of those three reasons, the Committee did not admit that memorandum and could, therefore, not stand the test of our legal provisions.

The Clerk also requested for information regarding the nominees from various agencies: Information from the EACC, the KRA, the DCI, the HELB and the Registrar of Political Parties. All the information sought in this regard is to enable the Committee and this House establish the status of the nominees on their integrity or compliance, criminal records, educational loan repayment and political party affiliations.

I also want to confirm to the House that out of the three nominees, there was no single report from these agencies that was against the three nominees. In the Report, we are able to table the certificates from these institutions confirming that they had no issues with the nominees. This is very important because this House rejected an appointment or nomination of Dr. Chumo a few minutes ago. It was on the basis of integrity. So, I am happy to report to the House that the three nominees had no issue touching on their integrity in the reports from the agencies I have mentioned.

Hon. Speaker, these nominees appeared before the Committee on 18<sup>th</sup> July, 2018. Page 21 of this Report is on the issues for consideration during the approval hearings. They were three: the procedure used to arrive at the nominees; the constitutional and statutory requirements relating to the nominees; and finally, the suitability of the nominees for appointment proposed with due regard as to whether the nominees' abilities, experience and qualities meet the needs of the body to which the nominees are made. The Committee was guided by those three very important considerations which are set out very clearly under Section 7 of the Act.

Hon. Speaker, in the interest of time, I will not go through every observation on these issues. In summary, Section 11 of the Act sets out the procedure to be used to arrive at nominees. There is supposed to be a selection panel which invites applications from members of the public, interview them and recommend names. We wish to confirm to this House that the committee noted that the nominations had been made in the manner prescribed under Section 7 of the Act and the Constitution.

The other consideration which is important is regional representation and ethnic diversity. I do not need to quote Articles 250(4) and 10(2) of the Constitution because they are very clear. I wish to just say that Section 13 of the Act provides:

“In shortlisting, nominating or appointing persons as chairperson and members of the commission, the selection panel, the National Assembly and the President—

- (a) shall ensure that not more than two thirds of the members are of the same gender;
- (b) shall observe the principle of gender equality, regional and ethnic balance; and
- (c) shall have due regard to the principle of equal opportunity for persons with disability.”

Out of the three nominees, one is a person living with a disability. He is a deaf person. I want, therefore, to confirm that these requirements have been fulfilled. The committee considered the list of members proposed for appointment as members of the commission and

noted that the nominees were drawn from three different regions and belong to different ethnic groups. Again, on that basis, we realised that that requirement is fulfilled. Out of the three nominees, two are ladies and one is male. That requirement too is fulfilled.

On the issue of the youth, if we were to apply the principle of ensuring consideration of all the categories of PWD and youth, then they would not all be fulfilled because we are talking about three members. If we were to have the fourth one being a youth, we would still not comply with the law. On that ground, the committee observed that whereas the categories to be considered for appointment are more, the situation therefore limits the ability to cater for all the categories.

Critically important also is leadership and integrity. Again, I do not want to quote the Articles of the Constitution because they are very clear, but let me inform this House that the committee noted that all the nominees met the leadership and integrity requirements set out in Chapter Six of the Constitution and other relevant laws. Relevant clearance letters from the institutions I mentioned earlier are attached to the report.

Finally, is the requirement of qualification under the CAJ Act. These members appeared before the committee, as I said, on 18th July. I will be dealing with the issue of qualifications as I make observations in respect of each nominee, based on the interest of time. During the conduct of the hearings, the committee was most importantly guided by the provisions of the Public Appointments (Parliamentary Approval) Act, 2011 which confines examination of nominees to the following areas: academic qualifications, employment records, professional affiliations, potential conflict of interest, knowledge of the relevant subject, overall suitability for the position, integrity, vision and leadership and expectations and key priorities.

Allow me to now go to Part V which summarises the observations of the committee in respect of each nominee. This gives you the summary on the requirements of qualifications. I will start with Hon. Florence Kajuju. The committee observed the following:

- (i) Her academic credentials and professional training and experience are extensive and she meets the requirements of sections 10(1) and (3) of the CAJ Act of 2011 because of the following—
  - a. She has over 20 years' experience as an Advocate of the High Court of Kenya;
  - b. She holds a law degree from the University of Nairobi;
  - c. She meets the requirements of Chapter Six of the Constitution on leadership and integrity having been cleared by DCI, KRA, RPP, HELB and EACC;
  - d. She is not a Member of Parliament or county assembly;
  - e. She is not a member of the governing body of a political party;
  - f. She is not a member of a local authority;
  - g. She is not an undischarged bankrupt; and
  - h. She has not been removed from office for contravening the provisions of the Constitution or any other written law.
- (ii) Her experience in the 11th Parliament and her tenure in various public entities will add value to the commission. This is a person that served in the 11th Parliament as the Member for Meru County. I also served with her in the Departmental Committee on Justice and Legal Affairs.
- (iii) The only memorandum contesting her nomination for appointment did not constitute a sworn statement hence it is inadmissible.

- (iv) There will be no potential conflict of interest stipulated under Article 75 of the Constitution in case she is appointed.
- (v) She has never been charged with a criminal offence in a court of law.
- (vi) She has never been dismissed from office under Article 75 of the Constitution for contravening the provisions of Article 75(1) on conflict of interest; Article 76 on finance; Article 77 on restriction of State officers; and, Article 78(2) on dual citizenship.
- (vii) She exhibited knowledge and understanding of the mandate and other pertinent issues relating to CAJ.

So that I do not spend more time on these issues, let me say that the same applies to the other two nominees in terms of the areas that I have covered in respect of the person proposed for the position of chairperson. In view of this, the committee, therefore, recommends that pursuant to Article 250(2)(b) of the Constitution and Section 11(7) of the CAJ Act, the House approves the nomination of:

1. Hon. Florence Kajuju for appointment as the Chairperson of the CAJ by His Excellency the President;
2. Mr. Washington Opiyo Sati for appointment as a member of the CAJ by His Excellency the President; and,
3. Mrs. Lucy Kamunye Ndung'u for appointment as a member of the CAJ by His Excellency the President.

*[The Speaker (Hon. Justin Muturi) left the Chair]*

*[The Temporary Deputy Speaker (Hon. Jessica Mbalu) took the Chair]*

This Commission is very critical, even as we discuss the issue of the Big Four Agenda.

Hon. Temporary Deputy Speaker, the Big Four Agenda can easily be achieved when we have an enabling environment in our country for people and investors to do business and ensure that they do not have challenges even in our daily operations in our respective offices. This Commission helps the country to ensure that the various malpractices by public officers in their offices and misuse of resources are curtailed.

As I conclude, if you read the functions of this Commission, you will realise that it is very important that we have men and women who will help run this institution in a very transparent manner. Allow me just to read Article 59(2)(h) and (i) of the Constitution. It says:

“The functions of the Commission are—

To investigate any conduct in state affairs, or any act or omission in public administration in any sphere of government, that is alleged or suspected to be prejudicial or improper or to result in any impropriety or prejudice;

To investigate complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct;”

So, this is a very critical Commission. Looking at the persons proposed for appointment, they have the experience, the expertise and the exposure. The Committee can confirm that we feel they can facilitate the smooth running of this Commission. Let me also say that the previous Chairman of this Commission is now a sitting Member of this House - Hon. Otiende Amollo – while the person who is being proposed now to be the Chair was a former Member of this House.

I believe there will be a lot of exchange of experience between the sitting Member here and the Member proposed to be the Chair. I believe this Committee is satisfied that these are members who can move this Commission forward to serve the Kenyan people and ensure that we have access to justice as they serve as public officers in our country. So, I want to move and request Hon. Peter Kaluma, who is also a Member of this Committee and a learned colleague who is my junior, to second this Motion.

Thank you very much.

**The Temporary Deputy Speaker** (Hon. Jessica Mbalu): Very well Chairperson. Hon. Kaluma, please second the Motion.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to second this important Motion. Indeed, I am junior to the Chair of the Committee both in Parliament and in the legal profession. That is how we address one another. It is not demeaning for lawyers.

I thank the President for once for upholding inclusivity and ensuring there is the face of Kenya in the constitution of this Commission even in as much as there was constraint in terms of numbers. For once, we have a Commission in which more ladies or members of the female gender are proposed to serve. It is two against one. For once, we also have a Commission which even though is limited to three in number we have a person living with disability sitting there.

The person confirmed during vetting that, indeed, there is no person with disability but we have people who are able in different ways. These are very sharp and patriotic Kenyans who would serve. On the requirements of regional balance, gender and integration to the possible extend have been met in these nominations.

The Report also confirms that the integrity of all these nominees is not under challenge either before a court of law or before anybody charged to investigate and ensure that ethical standards in persons holding public offices are upheld. Indeed, I know two of these nominees at personal and official levels. I do not know the nominee, Opiyo, but I know Hon. Florence Kajuju, the nominee for the Chair of the Commission. This is a lady who served the Law Society of Kenya (LSK) with distinction and even before her election to this Parliament was honoured by that great society of lawyers in the country, not only to serve in the council of LSK but also serve as the Vice-President of that great society.

Upon that service, we served with Hon. Florence Kajuju. I had the benefit to serve with Hon. Kajuju in the great Departmental Committee on Justice and Legal Affairs in the 11<sup>th</sup> Parliament. I can tell the nation today that if the work of this Parliament will be remembered, it would be remembered that it is during that time in the 11<sup>th</sup> Parliament when the Companies Acts and the Insolvency Act, which had never been legislated by this Parliament since its establishment, were enacted by the Parliament. They were very voluminous laws both in terms of content and sheer volume of papers.

I remember the energy, effort and focus that Hon. Kajuju put together with Members of the Committee including the current Chair in seeing it into fruition. There were many developments in the legal profession in the area of family law. For the first time we had one single law dealing with all family issues. We moved from the 1882 English Matrimonial Property Law which was governing issues matrimonial property between married couples. It is during the time Hon. Kajuju served this Parliament, together with us in Departmental Committee on Justice and Legal Affairs that we waded into that area of family law and secured it in accordance with the constitutional requirement that we properly anchor family as the fundamental unit of society. Those areas around that law were enacted.

May I confirm to colleagues now present and the nation that the efforts and focus of the contribution of Hon. Kajuju in the enactment of those laws were crucial so that I have no hesitation at all confirming to the nation that I do not only second but support the nomination. If possible, I would be joining Members and urging them to approve the appointment of Hon. Kajuju to serve. When she was here, we had the facility of bringing petitions. A few Members brought petitions in respect of matters affecting regions where they came from across the nation. It has not been forgotten by this Parliament that there was a time we nearly named Hon. Kajuju--

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Jessica Mbalu): Hon. Millie Odhiambo, we have not even proposed the Report but what is out of order!

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. Even though I laud my neighbour, Hon. Kaluma, for supporting women's agenda especially now that we have two women proposed there and a person with disability, is he in order to continue debating without declaring his interest? I have been listening to Hon. Kaluma very keenly and since he started, this Commission has three nominees but he is making it all about Hon. Kajuju. We were with him in the last Parliament and we all know Hon. Kajuju is a very beautiful woman. However, is he in order to be preoccupied with one woman and yet there is another woman and a man with disability?

So, I support the Motion and Hon. Kaluma, but can he declare his interest?

**The Temporary Deputy Speaker** (Hon. Jessica Mbalu): Hon. Kaluma, I am sure you are getting to the other two, but if you have interest you can declare it.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Speaker, Hon. Millie Odhiambo is my niece and she knows I will not declare my interests to her in those areas she is thinking about. I am not interested in the nominees other than to the extent that I know they are capable of serving in those offices, to which they have been nominated. I only started with the nominee for Chair. I am certainly going to the others. So, Hon. Millie Odhiambo should not worry. But I am happy that Hon. Millie Odhiambo has acknowledged that I have some abilities and interests beyond the important national services we are giving for now.

So, I highly recommend and actually support the nomination of Hon. Kajuju to serve. There is the second lady nominee, Madam Lucy Ndung'u. Let me only say that if you can administer or be in charge of a body administering political parties in the country, if you know how we behave in our political parties – and you do so not in a confirmed capacity but in an acting capacity but do so with the resoluteness with which Madam Ndung'u did her work – then we are talking of a person who has been petitioned, a person who can listen to anybody and a person who can withstand pressure in a commission of this magnitude. Therefore, I also recommend her.

I had mentioned that Mr. Opiyo is not known to me but based on the papers he presented and, of course, the confirmations by all Committee Members, this is a person of capable knowledge and experience on matters human rights. He is a person who confirms to us that, indeed, there is nobody who is disabled but we have people in Kenya in our formation who are able in different ways.

In ending, let me thank His Excellency the President for confirming that, indeed, what we term as the building bridges initiative with His Excellency Raila Amolo Odinga is a reality. Long before, more so in the 11<sup>th</sup> Parliament, you remember we were complaining about ethnicised appointments. There was a time I contributed in a matter of nominations being approved before



this House and the regions from which nominees were to come were very predictable. Let me confirm to the nation my appreciation that since the building bridges initiative and the “handshake”, from areas like Homa Bay where we have never known a person called a mere board member of parastatal, today we have members of boards of parastatals. My former colleagues, Hon. George Oner and Hon. Neto Oyugi are serving board members. You have seen other former honourable members in nominations here. Let me thank the President for holding true to the building bridges initiative, and for holding true to the constitutional requirement on inclusivity and the face of Kenya principle and integration as well as national cohesion in our country.

I thank His Excellency President Uhuru Kenyatta for being the symbol of national unity and not just living that spirit in word but in securing that spirit in his appointments. May I also thank the President for securing the wealth of knowledge those persons have had. The benefit of serving this country from the Floor of this House would otherwise be wasted outside there. They are now being put into national service in the manner we see the appointment of Hon. Kajuju, among other former Members of Parliament.

With those many remarks, I beg to second the Motion.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I know Hon. Millie Odhiambo is happy that you have spoken about the other members. I hope she was not protecting her territory.

*(Question proposed)*

Yes, Hon. Cecily Mbarire.

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this important Motion. Let me start by thanking His Excellency the President for bringing to this House for consideration three very able persons led by the proposed Chair, Hon. Florence Kajuju, who is known to many of us. She served in this House in the last Parliament not just as an ordinary Member but as the Chair of the Regional Integration Committee. This is a role she played very well with a lot of humility and ability. More importantly, she also served in the Justice and Legal Affairs Committee. Having listened to the Chair and those of us who know Hon. Kajuju, there is no doubt that she is really able to serve as the chair of this Commission. It is also very nice that we now have a woman who will be serving in this Commission that goes to support and hear the voices of Kenyans who have not been heard in other offices. I also want to say that she is very committed to matters human rights, matters women and the rights of women. So, I have no doubt that she will serve very well as the Chair of this very important Commission.

We also have Mr. Opiyo Washington who comes from Kisumu. He is deaf. I think that is a very good move by the President because he is telling us that, indeed, he continues to be very committed to matters and persons with disability. He continues to prove to this county that disability is not inability. He is appointing persons with disability into big offices to prove that they can also serve and do it very well. We have seen the work of a Principal Secretary (PS) who has done very well despite her disability. She continues to serve this nation very well. We continue to see many others, even honourable members of this House who have been nominated.

I am extremely impressed by his credentials having done a Diploma in Community Development at the University of Nairobi. Thereafter, he graduated with a Bachelor’s Degree in Political Science and Strategy in the same university in 2011 and in 2014 a Master’s Degree in

Human Rights and Governance. He is currently pursuing a Doctor of Philosophy at the Maseno University. How more inspiring can it be to see a person who is deaf who has gone this far and who the President has recognised? I really appreciate that and support Mr. Opiyo.

Of course, we have the third person, Madam Lucy Ndung'u, who is known to all politicians in this country. She is a lady who is as tough as steel. She served with all manner of politicians. Many times, we took to her very difficult situations that she handled very well. I truly support Madam Lucy Ndung'u. I think she deserves to be a commissioner. She deserves to serve in another capacity. I have no doubt that if she could manage that office of politicians, she can do very well in this Commission.

Hon. Temporary Deputy Speaker, allow me to just say two things. I do not know whether Hon. Members understand how important our benchmarking trips are. I am lucky and privileged to have been in the Justice and Legal Affairs Committee that was then chaired by the former Member of Parliament for Kabete, Hon. Paul Muite. We went to the Scandinavian countries to find out how the Ombudsman works. We were led by Hon. Marende. I was with Hon. Cheboi and the late Hon. Mirugi Kariuki. It is the report from that Committee that established the first Ombudsman Office in this country, which later became the Commission on Administrative Justice in the Constitution. It is important that we do not forget history. We should know that when the benchmarking that Members do is taken seriously, it can result into good things for this country.

Therefore, I hope that this Commission will go the extra mile from where Hon. Otiende Amollo left and make it better known. We need to facilitate them with enough resources to get to the citizenry because not many Kenyans really understand the role of this Commission. The citizens should know that they have an office where they can raise their complaints when no one else is listening. We can know the efforts they are making and what they are able to achieve through that office.

With those many remarks, I support the Motion.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker. This is another Motion that needs the approval of this House in making sure that we comply with Article 250(2) of the Constitution, Section 11 of the Commission on Administrative Justice Act (No.23 of 2011) and Sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act (No.33 of 2011).

The three nominees, namely, Hon. Florence Kajuju, the Chairperson; Washington Opiyo Sati, a member, and Lucy Ndung'u are a man and women who, based on the Report that we have received from the Committee, have shown immense experience and qualifications. I am sure that based on Article 75(1) of the Constitution, they have no potential conflict of interest. They have complied with the requirements of independent institutions, namely, the Directorate of Criminal Investigations (DCI), the Kenya Revenue Authority (KRA) and the Ethics and Anti-Corruption Commission (EACC), based on the appendix to that Report. They have not been adversely mentioned in any matter. To my knowledge, unlike Mr. Chumo, they have no active criminal case pending before a competent court.

I have known Florence Kajuju as a Member of Parliament for Meru County. She has a history within her profession. She was among the first female leaders in the Law Society of Kenya (LSK). She was the Vice-Chair of the LSK many years back when I was in the university or high school. She was a Member of the Departmental Committee on Justice and Legal Affairs

of the 11<sup>th</sup> Parliament. She was the Chair of the Committee on Regional Integration of Parliament. As the Leader of the Majority Party in the 11<sup>th</sup> Parliament, I can comfortably confirm that she was one of the best chairs that we had in the 11<sup>th</sup> Parliament. She served well on the Departmental Committee on Justice and Legal Affairs, under the able leadership of Hon. Samuel Chepkong'a. That was one of the best committees among the many committees we had. Hon. Florence did very well as the Chair of the Committee on Regional Integration.

As one of my colleagues, Hon. Mbarire, said, all of us who were in the 10<sup>th</sup> Parliament have in one way or another interacted with Lucy Ndung'u. She has been the pillar or navigator of political parties as they exist in Kenya. She grew up in that system. She was part and parcel of the people who navigated the new Political Parties Act and the Political Parties Tribunal that we have in this country today. Her name and position sound big, but Lucy is a very humble person. I interacted with her when my party took me to court a number of times. That is why I tell Hon. Osotsi not to worry when your party takes you to court. There were others before you. In 2007-2011, I had over 10 cases in court where my party wanted to expel me from the Orange Democratic Movement (ODM). Apart from the Speaker, the other person who would be served was Lucy Ndung'u. She made sure that she followed the law despite the pressure from political parties.

In 2012, before the United Republican Party (URP) and The National Alliance (TNA) merged, the current President was our candidate. I am sure Hon. Kareke Mbiuki and Hon. Mbarire sitting here can remember that for about three days, we lost our candidate to somebody else. We had no candidate, but Hon. Kareke, Hon. Cecily Mbarire, Hon. Shebesh and Hon. Kabogo did not sleep. We had to bring back our candidate to the campaign trail. Ms. Lucy was with us the whole time. People used to deposit memoranda and coalitions. With all the problems of the political class, if you meet Lucy Ndung'u, you will find her to be a very humble and good person.

I want to thank the President for appointing our brother, Washington. In the National Land Commission (NLC) as constituted today, there is a gentleman called Tororei, who is blind. This Commission is joining that line. This is a Kenyan who, because of his disability, has been given an opportunity to serve as a commissioner.

What is the function and work of the office of the Ombudsman? The function of the Ombudsman is to be a watchdog on behalf of the citizens. In fact, they play a similar role with the Independent Policing Oversight Authority (IPOA) and the Kenya National Commission on Human Rights (KNCHR). We expect Hon. Kajuju to be very firm and lead from the front in making sure that the rights of Kenyans, regardless of their political affiliations and which community they come from are given justice and a fair hearing under the new Constitution.

Hon. Kajuju and the two other members are up to the task. This is the only Commission under the Constitution that has three members. The Constitution talks about a minimum of three members and a maximum of nine. This one has three members. I ask my colleagues who were in the 11<sup>th</sup> Parliament, the likes of Hon. Wanyonyi, Hon. Makali Mulu, Hon. Mishi Mboko, the Secretary-General of FORD-K, and Hon. Eseli to enable her get this job. You know Kajuju. You can speak for Kajuju. Let us give her a job. You know Lucy. I am sure the Secretary-General knows Lucy better than most of us. He has interacted with Lucy more than anybody else. Because they have complied with all the statutory requirements, let us give them an opportunity. I am sure they will help us bring this institution that Hon. Otiende Amollo raised to a higher benchmark, to a further scale.

With those many remarks, I support the Motion.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I can confirm that Hon. Kajuju was always seated behind the Leader of the Majority Party. While you were away, Hon. Millie Odhiambo asked Members to declare interest.

Let us have the Hon. Member for Tongaren. He is next on my request list.

**Hon. (Dr.) Eseli Simiyu** (Tongaren, FORD-K): Thank you, Hon. Temporary Deputy Speaker. The Leader of the Majority Party has stopped me from my intention to move an amendment to drop the name of Mrs. Lucy Ndung'u. He has convinced and appealed to me. Otherwise, I drafted an amendment which I wanted to take to the Speaker. I will explain my reasons as I go on.

The Ombudsman office, which is now called the Commission on Administrative Justice is very important. Many people have missed justice in this country. They have no recourse to anywhere else. They are not even aware of arbitration. The Ombudsman office has very important officers. Hon. Otiende Amollo elevated it to that sphere. Many people are aware of it now. I know there is a move being initiated at the moment where people are trying to merge the Ombudsman office, the National Gender and Equality Commission and the Kenya Human Rights Commission. Some people are making a move to merge them with the impetus of reducing the number of commissions in the country. However, we should let the Ombudsman office stand for a while, so that people can benefit from it. In the spirit of devolution, they should also try and devolve their functions.

I am convinced that I will not move the amendment to drop the name of Mrs. Lucy Ndung'u. Her appointment is good riddance to political parties. I believe that she is the cause of the muddled political space in this country. She was the Registrar of Societies when the multiparty wave came in. She was in charge of the break-up of the Forum for the Restoration of Democracy (FORD) Kenya and the original FORD. She was also in charge of the mix-up in the Orange Democratic Movement (ODM) Kenya. She is the architect of the muddled political space. That is why I am saying that the only reason I will support the Motion is so that she can leave as the Registrar of Political Parties, so that we clean up that space. I am not being unfair to her.

Sometime in the 10<sup>th</sup> Parliament, I had a privilege to travel to South Africa under the sponsorship of the National Democratic Institute (NDI). During that time, the current Speaker of this House was the Chairman of the Centre for Multiparty Democracy (CMD) and was also on that trip. We were going to see how the Political Parties Liaison Committee works. We studied how the Political Parties Liaison Committee works at great expense. We were supposed to come and implement it here. What Mrs. Lucy Ndung'u implemented is a mongrel - it is not a Political Parties Liaison Committee. She did her own things and purported to be doing what we studied in South Africa. She totally failed. That has caused some of the problems we have at elections. We get this animosity between parties that cannot be solved. It is supposed to be solved by the Political Parties Liaison Committee. She was in charge of implementing that, but she failed.

She will go to the Commission on Administrative Justice yet she is unable to give administrative justice in the political parties' office, for example, in terms of sharing the Political Parties Fund. She decided that the share will depend on the presidential election of 26<sup>th</sup> October 2008. She left out the August 2018 elections and yet we know very well that you cannot base political parties funding distribution on a by-election. What we had as a repeat presidential election was a by-election. If we have a by-election in Migori now, it will not determine how many votes ODM got in order to get a share of the political parties funding. I will still accept to

support her because she will not be alone in this Commission. She will have two other commissioners who will mitigate her ill intent. I am sorry because I am being very harsh on her. However, it has to be said so that when she gets there, she knows that we know what she does and she stops those nefarious activities.

**Hon. (Dr.) Lilian Gogo** (Rangwe, ODM): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): You do not just shout point of order, Hon. Member. Put your intervention card.

**Hon. (Dr.) Lilian Gogo** (Rangwe, ODM): I have put it.

**Hon. (Dr.) Eseli Simiyu** (Tongaren, FORD-K): I will continue because she is not contributing.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I cannot see it. Do it again. I will rule you out of order when you shout. Hon. Member, there is point of order by Hon. Gogo.

**Hon. (Dr.) Lilian Gogo** (Rangwe, ODM): Thank you very much, Hon. Temporary Deputy Speaker, for the opportunity to contribute. I want to thank the Member who is giving a very good contribution. Hon. Kaluma declared his interest earlier. It is also important for the Member to declare his interest. He is explaining a positive agenda with negative energy. We have places where the person who has been nominated to this particular position used her intelligence to run her affairs at the political parties' office as a State officer. Let us not drag mud and use it to prepare ugali. It will not work very well.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): What is out of order?

**Hon. (Dr.) Lilian Gogo** (Rangwe, ODM): He should declare his interest and not use negative energy to drive a positive agenda.

Thank you, Hon. Temporary Deputy Speaker.

**Hon. (Dr.) Eseli Simiyu** (Tongaren, FORD-K): I do not know which Standing Order you are on.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Give me a moment, Hon. Eseli. Let us not use that chance to make our contribution. You have said that the Member should declare his interest. Let him do it.

**Hon. (Dr.) Eseli Simiyu** (Tongaren, FORD-K): The interest here is to debate the Report of the Committee. I am talking as a long-standing Secretary-General. I am giving my experiences. She did not tell me the Standing Order that I have breached.

As I speak, there are people in political parties who were not registered. It is a fact that there are people in political parties who were not registered. Finally, there is this issue of somebody being deemed to have left his political party. She has been totally unable to give direction and guidance on that particular fact. I will support all the nominees on one important fact that it is good for Madam Lucy Ndung'u to leave the Registrar of Political Parties office and go to the Ombudsman office where she will be checked by two other commissioners.

Thank you, Hon. Temporary Deputy Speaker.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Millie Odhiambo. You do not have your card.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Speaker, that is my point of order because my sister's, Hon. Lilian, was not working. So, you donated my

time to her. I have disappeared suddenly. You know how long it takes to queue, especially for a senior Member like me. Am I in order to request to be given time now because you have removed me from the queue? The technical team can confirm that. I have disappeared suddenly.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Millie Odhiambo, you are out of order. I can tell where you were. I will give you an opportunity to contribute at the right time.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): I am no longer there, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I know where you are. Member for Tongaren, are you through with your contribution?

**Hon. (Dr.) Eseli Simiyu** (Tongaren, FORD-K): Yes.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Member for Alego-Usonga.

**An Hon. Member:** He has left.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Member for Tharaka.

**Hon. George Gitonga** (Tharaka, DP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Motion which has been presented ably by the Chairman of the Departmental Committee on Justice and Legal Affairs and seconded by Hon. Kaluma. I am contributing as a Member of this Committee that vetted the three nominees whose debate is now on the Floor of the House.

It is important to note that the Committee did extensive work in vetting the candidates. In fact, we went out of our way to ask questions which would in any way betray the three candidates' disposition as far as integrity is concerned and other qualifications. We are happy to report to the House that the three candidates actually met the threshold of being appointed to the office of the ombudsman in Kenya.

The country is wondering who the ombudsman is. It is a Swedish name that we have inherited. There are arguments that now that the chairperson is a lady, we may actually call the person the ombudswoman. But the correct position is that the word ombudsman is Swedish and it is used as a term of art to depict the person charged with the responsibility of protecting the public against the administration; maladministration. Therefore, the ombudsman is our protector, the people's watchman and the person who is supposed to ensure that there is fairness and justice in all Government dealings.

Hon. Florence Kajuju met this criterion when we vetted her. She is an astute lawyer. I know her. We have practiced together for many years. I also observed that when she was a Member of Parliament, she served the country with dedication. This is why the Committee has not hesitated in recommending that she be approved.

Mrs. Lucy Kamunye Kambuni Ndung'u is also an astute advocate who has worked for the republic at the Office of the Attorney-General all the way to the Registrar of Societies to become the Registrar of Political Parties. In spite of the reservations that have been voiced by a colleague, we, as the Committee, were of the view that she did the best she could knowing what our political parties are in Kenya especially with their shambolic nominations that come towards the end of every term. This lady was even able to assist Members to contest as independents and we have no less than 14 Members who won elections. This is a clear testimony what the Registrar of Political Parties had done. We even asked Lucy Kamunye why she had dissolved the Party of National Unity (PNU) which boasts of having one Member of Parliament from Tigania East. She explained that it was her adherence to the rule of law that made her rule that the party

had not complied with certain sections of the Political Parties Act. We were satisfied with that answer.

Regarding Mr. Washington Opiyo Sati, we were taken a little bit aback because he is deaf and we did not know how we would go about vetting a person with whom we could not communicate directly. But when we went through the process in the Kenyan Sign Language with an interpreter, Mr. Washington Opiyo Sati answered our questions in a manner that was exemplary. We were convinced he had proper grasp of what work the ombudsman is supposed to do. His record with the Kenya Human Rights Commission is impeccable. He understands what Kenyans expect of him.

All in all, the three nominees are qualified to sit in the Commission. It is a Commission that has been formed together with the Kenya Human Rights Commission and the Commission on Gender Equality, but it has a peculiar niche in the administration of justice, in that it is the Commission where the simple Kenyan, the down trodden, the person who is likely to be offended by maladministration right from the village level right to the national level would go and complain. These are the people we want to charge with that responsibility of protecting ordinary Kenyans and of watching ordinary Kenyans' rights so that we are protected against a Government that sometimes can go rogue and trod on the rights of Kenyans.

It is, therefore, important for us to thank His Excellency the President for nominating these qualified persons. It is also important to thank him for nominating somebody who is deaf. It is a belief in the country that disability comes with inability. Far from the truth, as it has been explained, in the NLC sits a blind commissioner who has been doing a fantastic job. The gentleman, Washington Opiyo Sati, is deaf, but when we listened to him at the vetting and during cross-examination, we were satisfied that he would render the services the office of the ombudsman is supposed to render.

With those remarks, I support the Report and support these persons be approved by the House for appointment by His Excellency the President.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Thank you. Hon. Mariru Kariuki.

**Hon. Patrick Mariru** (Laikipia West, JP): Thank you very much, Hon. Temporary Deputy Speaker, for the opportunity. I also rise to support the Report of the Departmental Committee on Justice and Legal Affairs on Hon. Florence Kajuju, Mr. Washington Opiyo as well as Madam Lucy Ndung'u as chairperson and members of the Commission on Administration of Justice respectively.

I may not delve into the lives of each of them because I may not know much about some of them, but based on the Report by the Committee, it is gratifying and satisfying that the three individuals are going to serve the country to the extent that they should.

Over and above the appointment of the persons, it is important to look at the institution itself because the individuals are being appointed to serve the country at the levels they have been nominated to. I have a particular interest in this Commission because at some point before I was elected as a Member of Parliament, I worked with an equivalent in Sweden and in three other countries. In many jurisdictions, this Commission is highly respected because it gives an opportunity to citizens who in one way or another have issues with Government offices.

The office gives them an opportunity and space to go and raise issues sometimes of maladministration and sometimes gaps within the Government are investigated. It is important for the Commission over and above what the first Commission did to take their role very

seriously. They should not just receive complaints from Kenyans and dispense with them. The commission needs to go beyond receiving complaints.

They need to get into the Government and address some of the systemic issues within the Government that Kenyans keep complaining about in our ministries, agencies and parastatals. There is need for the Commission to go beyond the ordinary, the normal and go beyond what other commissions do so that they get to know why Kenyans are complaining against certain Governments agencies, officers and certain issues so that they get deep into the issues. There is need for there to be a very close collaboration between the Commission and the National Assembly because some of the issues that are being raised, sometimes would need policy or legislative intervention and the Departmental Committee on Justice and Legal Affairs will come in handy in addressing these issues that Kenyans are suffering from.

Also, this House needs to rise to the occasion and support this Commission. On resources, the budget allocated to this Commission this year is certainly inadequate yet we are talking about this Commission getting to the counties. The complaints and the issues being raised by *wananchi* are not just being raised around national Government. It is also about county governments. There are issues that need to be addressed in the counties. This Commission would need to find branches within the counties. They need resources. If we allocate them little resources, they will not be able to address the issues that are being raised by *wananchi*. How will they get to the counties? There is also the challenge of a commission that just receives complaints and at the end of the year, they do a big annual report and that report gets to the cupboards. There is no clear way of following up on the issues that are raised by this Commission.

In the last Parliament, the National Assembly enacted the Access to Information Act that gives certain responsibilities to this Commission. In accordance with the Access to Information Act, which emanates from the Constitution, Kenyans have a right to know what is happening in the Government. If there are issues and hindrances to Kenyans accessing information, they go to this Commission based on that Act. There is even expanded responsibilities, roles, opportunities and spaces for this Commission that Kenyans should utilise. Therefore, the issue of resources is very important. It will be important for this Commission to have functional relationships with other agencies like the EACC and the DCI. Some of the issues that are being raised are not just general complaints. Some of them have criminal and corruption perspectives. So, there is need for this Commission to functionally relate with other relevant Government agencies.

One of the jurisdictions of the Ombudsman that is well known is in Sweden. As I said earlier, I had an occasion to work closely with the Swedish Ombudsman. It is an extremely respected Commission. In fact, the Ombudsman in Sweden is not under any ministry. It reports directly to the Parliament of Sweden. That shows you how seriously the Ombudsman is treated. They give reports of what they have done, the issues that they have followed up and those they have not followed up. This Commission needs to gradually get to that level. In fact, in other jurisdictions in Europe, this Commission is not called Ombudsman. It is called Parliamentary Commissioner because Parliament is the representative of the people. So, for Kenyans who are struggling with maladministration or have issues with the Government, they need to find space so that those issues can be addressed. It is as important as that.

As we approve the nomination of these three great Kenyans, it is important for this Commission to get to where it should be. That is the responsibility of these three individuals so that it is not just some other hidden office whose responsibility we do not know. They need to get to the level where Kenyans find value in what they do.



I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Millie Odhiambo, Member for Suba North.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Otherwise, known as *gesa gesa* or Hon. Millie Mabona.

Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I fully support the nomination of the three adults to this Commission on Administration of Justice. This is a Commission which is equivalent to the people's watchman. I would equate it to IPOA that checks on police behaviour, or the Advocates Complaints Commission (ACC). These are bodies put to support the public where there is misbehaviour by Government bodies. That is why I call it the people's watchman.

I had occasion to work very shortly at the ACC. I want to agree with the Member who spoke just before me. If you look at what was intended by bodies like the Ombudsman and equate it with the Swedish one, it should be one of the most powerful bodies, especially when it is a public defender. It is the defender of the public good. I thank Hon. Otiende Amollo, who served there before he joined Parliament. He did an excellent job even though he did not get all the support he needed, because it was a new body. I am sure we are going to adopt this Report. I hope as Hon. Kajuju goes there, they will give it the oomph that it needs so that the public can have confidence in service delivery. For instance, when somebody asks for a bribe, I know the EACC is there, but the office of the Ombudsman is also a watchman that would still oversee and look at issues that they can redress, where people in the public service misuse their powers.

I am happy that Parliament also takes note that it is very rare to have the one-third principle favourable to women. We always talk about gender, but when we dissect the gender to men and women, it always favours the male gender. This is one of the few instances where the gender supports women. Even though we tend to think that gender is about women, it is about both men and women, but men are very clever. When you use the term 'gender', they perceive it in terms of the additional roles that are for women. When you ask your husband to cook for you *ugali*, he will not, but when it becomes remunerative, he gives it a very fancy name called 'chef'. You will find that all the chefs are men. So, if you find anything that has monetary implication, the men will re-baptise it and take over.

I am very happy today because we are recognising the capability of women. Yesterday, I had the occasion of being interviewed by somebody who was asking me about the history of the women movement. I said in spite of the fact that we have challenges and we might ask whether we still have a movement, there are certain things that we can be proud of as a country. This is one of the things that we can be proud of. In the last 10 or 20 years, every time there was an appointment, you would be hearing 'this is the first woman'. Unfortunately, even this one is the first woman chairperson of such a commission. However, they are becoming fewer. The more we hear of the first woman chair in this or that commission, the better for us as women because it means we are being mainstreamed in the running of the affairs of our society. How wonderful it is when we will be talking about the first woman president, the first woman deputy president and first woman chief justice. The first woman Deputy Chief Justice of this country was sent home on nose-pinching charges yet we see men getting away with worse things. That is why I am telling you that the gender war is still a long way to go. Even when you talk about the women movement, we still have a long way to go even though we have made strides.

I am very happy. We served with Hon. Kajuju in this Parliament and I do not want to over exalt her the way Hon. Kaluma did. When she was in this House, we used to call her the

Leader of the Majority for other reasons. I do not want to over exalt her virtues. She is an excellent lawyer. She is a very strong woman. She fought on the issue of *miraa*. I know the woman who has taken over from her. I have met her and we have served with her in the Parliamentarians for Global Action. She is an equally good woman. She will do a good work.

Hon. Temporary Deputy Speaker, I know Hon. Lucy. I served with her when I was a State Counsel at the State Law Office. She is a very humble woman. She was given a very difficult job at the Political Parties Office. I am sure every person was very aggrieved with her. I know many of us were. It is usually very easy to criticise. I know that because I am very good at doing it, but sometimes we forget that it is very difficult for people who sit in those offices to balance difficult political interests. I can say that because of the handshake. There are things we cannot say when we do not have the handshake. But I can say it is very difficult. I want to tell her ‘well done’ in managing a very difficult political situation where we needed her to balance both interests and effect the word ‘deemed’ yet there are people who had been elected by others. I know she could have done better, but she did fairly well within the circumstances. Because of that, I support.

I also want to say it is a good that a person with disability has also been nominated. I do not know him in person. In an ethnicised society like this, I am sure many people would be thinking that I should be knowing him because of his last name. Unfortunately, I know the other two who happen to be a Meru and a Kikuyu - how beautiful it would be in a country where we know people because of their capabilities and much less because of their ethnicity. But I am very happy we have a person with disability. I encourage our Speaker that in the same way we are moving towards a digitised Parliament, because we are taking cue with globalisation, we should keep up with the world. Everybody in the public was so annoyed with us because of the way we become digitised and people ask whether this is a priority in the country. If there is something the Speaker can do which is a priority in this country, is to sponsor a programme for every Member to learn sign language. That would be a very noble venture. I was a victim when I was in the civil society. I used to talk and teach a lot. I am a teacher in my other life; not formal teaching, but I teach a lot of different things. I was one time called to speak to persons with disabilities. When I went, I learnt that those of us who are what I would call ‘able’ never think about these people. When I went in, they did not have anything. Everything was in braille. Suddenly, I was the one who was ‘disabled’ because I could not follow what they were doing with braille. It is important we consider people with disabilities.

There is a young lady I grew up with called Grace. I did not see her for almost 30 years and I met her on the streets of Nairobi one time. When I met her with her husband, she was so excited. She was deaf. She wanted to introduce my sister and I to her husband. She was so excited. She hugged us after so many years. Then, because we could not communicate, we got into a restaurant and she started writing. She said ‘I am sorry I do not know your name’. I grew up with her, played with her and I knew her as Grace, but none of us bothered to know that she never knew our names. She cannot hear. We all presumed she knew us. She knew our faces, but she never knew our names. I encourage our Speaker of the National Assembly that it would be the noblest of things if you forced Members to learn sign language.

I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): This is a House of record and I am sure that is noted. Nominated Member, Hon. Osotsi Godfrey. He is next on the queue.

**Hon. Godfrey Osotsi** (Nominated, ANC): Thank you Hon. Temporary Deputy Speaker for the opportunity to contribute to this Motion.

Before I go into the substance of this Motion, I would like to make a comment regarding the vetting process for these nominees. You will remember that yesterday, Hon. Kaluma raised a very fundamental issue regarding the law on the matter touching on Ben Chumo. Mr. Ben Chumo, despite the fact that he is facing a court process, was invited to be vetted. Then, we have just heard from the Chairman of the Committee that the law, the Public Appointments (Parliamentary Approval) Act, provides that if that process is not concluded within 14 days, the nominee stands appointed. Hon. Kaluma asked of a convicted nominee and is in prison. What do we do? It is important for this Parliament to revisit that issue and if possible, amend that provision in the law.

The second issue about vetting is that there are officers, CSs and PSs who are serving yet they are not in compliance with the Public Appointments (Parliamentary Approval) Act. Section 3 of that Act provides that if you are appointed to a different position like what has happened with CSs after election - even recently, some PSs were reappointed after their services being terminated - they are supposed to go through a vetting process by Parliament. That has not happened and these people are serving. We will require direction on that matter.

Going into the substance of this Motion, I want to bring to your attention that the mandate of the CAJ is to investigate any conduct in State affairs, any act, and any omission in public administration in any sphere of Government. Complaints of abuse of office, unfair treatment, manifest injustice, unlawful oppression and unfair or unresponsive official conduct. I want to underline the word 'any sphere of Government'. This commission is very important. I join my colleagues who said that we must look at the organisation, not the individuals who are going there. This is a very important organisation in the administration system of this country. If we are serious about fighting corruption as the President has said, we will begin by ensuring that this organisation or commission is given teeth to bite. As it is, with the nominees listed here, we are not going to achieve the mandate of this commission. I am saying this because if you look at the mandate of this commission, whoever is appointed to be a commissioner must be totally independent.

I know the mood of the House is to pass this Motion. If you ask a question: Is Hon. Florence Kajuju going to be independent? The answer is 'no' and you know the reason. Is Mrs. Lucy Ndung'u going to be independent? The answer is 'no'. We need to be consistent in what we do as Parliament. We have just passed a Motion rejecting Mr. Ben Chumo for the reasons we have given. But we are now in the mood of passing another Motion appointing people to a very serious commission and we are not looking at the details. I have known the third nominee as the Registrar of Political Parties for some time now. If there is an office in this country that requires serious reforms and serious administration, it is the office of the Registrar of Political Parties. What is happening there? We have cases of abuse of office. We have cases of unfair treatment. I do not know whether the Committee tried to do more thorough work by even seeking for a presentation from the Political Parties Tribunal. Many judgments have queried the capability and fairness of the office of the Registrar of Political Parties, notably, deregistration of the PNU, which was not done fairly and objectively. So, I join my colleagues...

*[The Temporary Deputy Speaker (Hon.) Ms Jessica Mbalu] left the Chair]*

*[The Temporary Deputy Speaker (Hon.) Mr. Patrick Mariru] took the Chair]*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order Hon. Osotsi. What is it, Hon. Makali?

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker. With all due respect to my friend, is he in order to say that the public was not given a chance to make their presentation when these things were put on paper? People were given time to submit any complaint. Is he in order?

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Osotsi, as you know, part of the process is public participation and I am sure that was done. Are you using that route to prosecute your case?

**Hon. Godfrey Osotsi** (Nominated, ANC): Hon. Temporary Deputy Speaker, I did not talk about the public. I talked about the Political Parties Dispute Tribunal, which is an organ that deals with disputes of political parties and whether the Committee sought some report from the Political Parties Dispute Tribunal. That is provided under Section 12 of the Public Appointments (Parliamentary) Approval Act which talks of information from other bodies. I will join my colleague, Hon. Eseli, who is the Secretary-General of FORD Kenya to say that I have reservations about Madam Lucy, but because the House is in the mood to pass this Motion, we would rather have her in that Commission than the office of the Registrar of Political Parties. It is now an opportunity to reorganise that office and clean it up. If we are not organising the office of the Registrar of Political Parties, then even the people who are elected in this House will have a problem. Our political system has challenges because we have allowed the office of the Registrar of Political Parties to do all manner of omissions and no action is taken. We have even representation that has been made by Political Parties Liaison Committee (PPLC) to this very Commission that Madam Lucy is being appointed on her conduct, and nothing has been done. So, I will support on the basis that it will give us a chance to clean the office of the Registrar of Political Parties.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Iringo Kubai.

**Hon. Kubai Iringo** (Igembe Central, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this Motion. From the outset, I want to say that I support the decision of the Committee. From the resolutions of the Committee as stated by the Chair of the Committee, I believe the due process has been followed in nominating, vetting and presenting these names to this august House. The President was within his powers as per the Constitution, to pick these Kenyans to be vetted by Parliament. Therefore, I do not see any reason why one would say that there is any doubt in picking any of them.

There is a notion in this House - which I am serving for my second term - where if somebody is not picked from our region or not our choice, we feel that the due process was not followed, the face of Kenya has not been realised or our person of interest was omitted. I agree with the Committee in that these persons who were vetted here are duly qualified. Secondly, the gender aspect and the national outlook were also looked into. We only have three slots and Kenya is very big.

Looking at the individuals, I do not know much about the second officer, but I appreciate that he is deaf and he is representing the disabled fraternity. I believe he will add value to this Commission. Hon. Florence Kajuju is a former Member of this Parliament. She was the Woman Representative for Meru County. When she was in this Parliament, she did an exemplary job. She was the Chair of the Regional Integration Committee, which I was a Member. She was also a Member of the Justice and Legal Affairs Committee and a Member of

the House Business Committee (HBC) and she was very thorough in her work. She was also the Chair of the Ad hoc Committee on *Miraa* which worked tirelessly to make *miraa* a scheduled crop. Today, the Meru people are enjoying the fruits of her labour and the fruits of her struggle to make *miraa* a cash crop. Therefore, she is quite ambitious, innovative and somebody we can rely on.

Having been a lawyer for about 20 years and a Vice-Chair of the Law Society of Kenya, she has vast knowledge on what goes on in the legal fraternity and she is up to the task. This Commission, without belabouring, will be a bridge between the citizen and the Government agencies. This is why we need people of integrity to look at the needs of the citizens and check where Government agencies, who are supposed to serve the people, are not doing that. I urge the nominees and the Chair to look at the pensions department of this country when they get into office. Many people have retired and they have been going to the pensions office day in day out to get their pensions without success. Some of them die before they get it. A Nurse passed on and I have been following up for his wife to get the benefits, who is old and ailing. I do not know who will be given that money. These are the offices that need to be cleaned and looked into. I know these officers are up to the task.

Ms. Lucy Ndung'u, who some of us have tried to bash, was in a very hot seat. We are all politicians and we know what we go through especially during the electioneering period and when we are registering parties and clearing candidates. It is a very difficult time and you can see this lady has done her best to survive those years there. Despite those many hiccups, she did her best. If you went for service there and what you wanted did not come out correctly, that is the time you needed to condemn the officer. At the end of the day, things will not go our way all the time and when we want. Therefore, I believe this team should join hands with IPOA, EACC, DCI, DPP and the office of the Attorney-General to clean the various ills which bedevil service delivery in the Government. This will ensure that the citizens of this country can access Government services without problems. I would urge them not to stay in Nairobi. They should go across the country and see what issues that in our lands offices, DCC's, county offices, prisons, the police force and all the departments. With these characters, I strongly believe under the chairmanship of Hon. Florence Kajuju, the team of Washington and Ms. Lucy Kamunge will do a good job.

I support the recommendations from the Committee.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Oundo, Member for Funyula.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker for this opportunity. It has been a long wait. As I stand here, I support the recommendations of the Report by the relevant Departmental Committee on Justice and Legal Affairs Committee. Of course, I support with reservations, but I will focus more on the mandate of the Commission and make a few comments here and there.

To the general layman, an ombudsman is an extremely important organ in any society. Indeed, Government and many institutions by nature are susceptible to excesses. They are susceptible to excess treatment, excess use of force and misuse of power. We need an independent organ, an impartial organ and one that has teeth to bite. We need an organ that will investigate, review and take necessary administrative action against State officers and public servants who misuse their powers. Indeed, this office should be in the forefront in enforcing Chapter Six on Leadership and Integrity and all laws and regulations that deal with public service and leadership.

It is disappointing, so to speak – and I say this with great deference to my colleague who was also my year mate at the university, namely, the former chairman - that on the face of it, the office has performed dismally. The cases we are seeing of corruption and misuses of police power would have been prevented or minimised if this office had worked hard enough, diligently and proactively by listening, investigating and taking appropriate disciplinary action. Of course, a chat and discussion with the membership of the Commission revealed lack of resources and inadequate budgetary provisions as the main problems. Nevertheless, lack of money should not be an excuse not to deliver on their mandate. I stand with those of us who urge that in the next budget-making cycle, we need to give them a little more funds and resources to enable them devolve their activities all over the country and reach the wanjikus, wanjirus and Onyangos deep in the villages and in the small urban centres. They need to get closer to the people. As things stand now, there has been massive abuse of human rights in various directives implemented by Government officers as a result of presidential directives or roadside declarations given by other people.

If, indeed, we had a strong ombudsman, probably the hue and cry concerning human treatment during evictions in the Mau Forest, in Kibra and very many places would not be a constant occurrence in the daily newspapers and social media. It is important that the two ladies and gentleman, as they assume these positions, know that they have their work cut out. They should know that they have an onerous task of ensuring that they address injustices meted upon the people of Kenya.

As many of you have stated, it is important that we have an independent body. This brings me to the case of the appointees. As much as we would be reluctant to discuss individuals, the regulations are very clear. Many of us, privately and publicly, have reservations about the first and third nominees simply because of their past associations. We are afraid that they cannot be independent. It is practically impossible to be independent. There will be so many issues raised against the Government and I am afraid, and I can take it to the bank, that for sure, there will be an element of cover-up. There will be an element of protecting the system that took them to those positions. So, obviously, I am afraid that during their term, nothing substantive or useful will come out of it. Of course, with regard to the third nominee, the former Registrar of Political Parties, there has been a bungled system of nominations and poor system of membership. We have had very many cases where persons would be registered in three or four political parties without their consent. If the system was foolproof, it means that there is a management or organisational challenge that she has not dealt with. However, as many of my colleagues have said, it is good riddance. Probably with her departure, the political landscape will improve tremendously.

I want to urge them, as they assume their positions, that as much as they are more or less committed or inclined to some political persuasion, it should not be their business to protect the government; their business should be to protect the ordinary mwananchi who in many cases suffers injustice, administrative malpractices and have nowhere to go.

As I conclude, it is important that those of us who sit in committees to vet people go out of our way. Many times, we have the challenge of public participation which cuts across very many functions and activities that we perform as Members of Parliament. The response from the public is generally minimal and generally useless. It is nothing of value that can help. We ought to go out of our way to literally solicit for and get views and do our own research to find out the issues. I am sure even if they would have asked the current holders of the offices, they would have given them volumes upon volumes of complaints against the outgoing RPP. These are

issues that we need to address going forward so that we can strengthen the role and the way we vet nominees.

With those few remarks, I beg to support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): To my right now, Hon. Gichimu. Absent. I will come to my left for sure. Hon. Hassan Rehema. Very well. The next one is Hon. Kabeabea.

**Hon. Josephat Kabeabea** (Tigania East, PNU): Thank you, Hon. Temporary Deputy Speaker. I rise to thank the President very much for nominating these individuals. I also want to thank the relevant Committee for vetting them and finding that they are good people. Specifically, what I want to say is that people have contributed and have said how they know Hon. Florence Kajuju, the one nominated for the position of chairperson. I want to attest that she comes from my constituency and that I have known her since I was a young man. She is a well learned person and very hard working. I want to confirm that through her work as a lawyer and as a very successful Woman Representative of Meru County, she has done very good work which is beyond reproach. So, she is the right nominee for this important Commission.

As for the other nominees, I want to confirm that I am very happy with the nomination of Mr. Washington Opiyo. It is a show that, as a country, we are concerned about people living with disability.

As for my friend. Madam Lucy, I support her, yes, for the nomination, but I also want to express my concerns. Just like many of my friends have said, I am the only Member in this House on a PNU ticket through decisions of dissolving the party. I would not have got a ticket to come to this House. There are so many Members of county assemblies, spread all over this country, who won elections through PNU. I am happy and support her for this nomination. She will now cross over from that docket of political parties to this other one. We hope that when she goes to this very important Commission, she will do her work well. She should not mess the Commission like she did when she was in charge of political parties.

With those few remarks, I support and under the leadership of our very able Hon. Florence Kajuju, we are going to see revolution in this Commission. The public will have a say, be protected and any sort of mismanagement and malpractices will be dealt with. I know my sister and good friend, Hon. Kajuju is equal to the task.

With those few remarks, I support the nominees.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well. Shall we now have Hon. Makali Mulu.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for giving me the chance to add my voice to this important debate. I support these appointments and the recommendations of the Committee. Why am I saying that? The work of this Commission on Administrative Justice is very clear. The mandate of this Commission is clear. Some of us have had a chance to work with some of these nominees. I get surprised when people say because you have been nominated by a political party, you lose your independence. The analysis is only based on competence, whether you have what it takes to do that work and also consider the working environment.

Some of us served with Hon. Florence Kajuju in the 11<sup>th</sup> Parliament. She was a Member of the Departmental Committee on Justice and Legal Affairs and at the same time, she was a Chair of the Committee on Regional Integration. We can attest that other than these political considerations, Hon. Kajuju has what it takes to do this work. That is a statement of fact. It can be challenged anywhere, but it is a fact. Irrespective of who has appointed her, she has what it

takes to do this job. I can tell those who are doubting to just give her the chance and within a year they will see what she can do. There are advantages and disadvantages of being appointed by a political party. At times, it can work well for that Commission because being an appointee of a particular party, may be the powers of that party can listen to you when you make suggestions on what should be done. It can also work against you if you are compromised, but I do not believe Hon. Kajuju is that kind of a person. So, I urge my colleagues that even as we think about the appointing authority, let us look at the individual and her capacity confirms that.

I have had a chance to work with Madam Lucy Ndung'u before I joined Parliament and before she became the acting Registrar of Political Parties. During that time, we were working as technical people, using our training and profession to do the work. I can confirm to the Members that, even as you analyse Madam Lucy Ndung'u as an individual and her performance as the RPP, we must remember that she has never been a substantial RPP. She has been acting for all those years.

We all know very well that when you are acting, you may have some challenges. By the time she was working in the office of the Attorney-General as one of the senior officers, she was among the best officers. That time, I was consulting for the Government and she was one of the officers working under me in terms of training. She is one of the best students you would get while training officers. I look at her performance in this place based on the working environment. We are all politicians and must accept that if there is any group of people who have disorganised this country, it is us when it comes to political issues. Look at the way we manage political parties. How many of us have run away with certificates? We are here having taken off with certificates where we were not properly nominated. Imagine you were in charge of such a group of people that expects the same treatment when they come to your office.

So, we must accept that Lucy Ndung'u was working under a very difficult environment, more so politically. To make things worse, she has always been in an acting capacity. I sympathised with this lady. If I were her, I would have left this place a long time ago. Despite all these challenges, she stuck to that position until she was given this other opportunity. Even for those who are saying that it might be good riddance to leave the RPP so that we can improve the office, I pray that we support the person who is going to take that position both from political parties and from the Government.

We need a substantive RPP. Let us start by looking at ourselves, those who are in charge of political parties. If we promote democracy at that level, we will make the work of the RPP easy, but in a situation where we have all this confusion in political parties, automatically that office will be confused. I support this appointment and plead with Members to allow these Kenyans who have been given this opportunity to serve us. If they have any shortcomings, the law is very clear in terms of how you can replace a commission. I am sure the Chair of Departmental Committee on Justice and Legal Affairs, Hon. Cheptumo, will be more than willing to bring a Motion to this House and claim that so and so is not performing and recommend for their removal. When we start discussing individuals in the light of not performing and we do not consider the environment, we will not be doing service to this country.

Hon. Temporary Deputy Speaker, for your information, after the next election, some of us here have very good papers and would want to be appointed to some of these positions after Kenyans will have said 'no' to us. This is because about 70 per cent will be going home. We have no choice. You may want to hear this statement or not, but starting 2023, about 70 per cent of the Members will be away from this place and we will be seeing new faces all over the place. We will be asking ourselves which commission to apply to serve in. I would want us to support



those of us who would have been in this House and are out there. Let us appoint them based on competence and not look at who is appointing them because once they are there, they will serve Kenyans.

With those remarks, I thank you for giving me a chance and I support these appointments. Thank you very much.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well, you turned yourself to be a prophet of 2023, but never mind.

**Hon. Benson Mulu** (Kitui Central, WDM-K): No. I am not a prophet. You know, I hold a PhD in Economics, part of which is statistics and statistics do not lie. We have done a trend analysis and 70 per cent will be going home.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well, and not you. Let us have Hon. Rindikiri.

**Hon. Mugambi Rindikiri** (Buuri, JP): Thank you, Hon. Temporary Deputy Speaker, for this opportunity. I rise to support the nomination of Hon. Florence Kajuju, Washington and Lucy Kamunye.

My good friend, Hon. Makali, has stated very clearly that at times we drag in issues without analysing the situation. None of us here can stand and say that he is perfect. I want to pick from there. This is an independent office, away from where some of these people have been placed. Some people are good at criticising. One Member said that we cannot put positive energy by bringing negative statements. We need to challenge ourselves. I agree with Hon. Makali. If a mad man walks into your house and you start shouting, both of you become mad men. There is no difference. What am I saying? We all belong to political parties and we know the history. This is not to meant that the Jubilee Party was not also disorganised. It was, if that pleases some Members here. We went through the same problems that you went through. So, outrightly, you cannot say that because you are in the Opposition, Madam Lucy was the cause of your problems. Let us agree with the facts.

I support her. She worked under very strenuous circumstances. I know where she was working before. She was nominated to go to the department of political parties, a department she ran it perfectly. She is the one who put up all the systems of running the department. You are now in a situation where you are given papers which are not true. Thank you, Hon. Makali, for bringing up the issue. With all due respect, I expect my friend, the professor, to have done a bit of research to know her background and where she has come from. However, Hon. Makali has brought it out and I think the professor will agree with us now that her intentions were not really properly analysed. I know Hon. Florence Kajuju very well. I come from Meru and she comes from Meru. She is very dedicated. Many of us might not know this. She comes from a very humble background. Her first job, when she was not even in school, was a house girl. She was educated by her employers. She is a person who really understands the problems at hand. The job of the chairperson is to manage the Commission. There are so many issues that affect our human rights in this country, ranging from State departments to schools, land issues and prisons. Just name it. I believe with her background as a Member of Parliament, she is the best choice for the job. We are the people who are grappling with problems of human rights in this country.

With her background as a lawyer, and having been a Member of Parliament, this is the best person to handle this office. Of course, the office has challenges. For us, as Members of Parliament, we should ensure that this office is properly funded and given support. I would imagine that they are not only going to operate in Nairobi. We have more issues in the rural areas than in Nairobi. People are being mugged all over by the police. I have a case in point which

happened just two days ago, where an innocent person was called by the police to rescue a vehicle which had broken down belonging to a Member of Parliament. When this man took the vehicle to the police station, he was beaten up by the police. What a shame. I know Hon. Kajuju and Madam Lucy will stand for the common person. I know Washington will stand for the common person. This is the point we need to speak aloud on, including checking the activities of the Judiciary. They are not away from the Commission's sight. We need a systematic analysis of the issues that affect our society. This Commission should be given the mandate to carry out continuous research based on the nature of complaints. It should localise, regionalise and departmentalise them and come up with serious solutions in the long-term, which can even be brought here for legislation.

I join the other Members in supporting the Motion. This is a free service that the Commission will render to our people. We need to educate the public about the importance of this Commission. We need to move further and ensure that we have funded them properly. They need to be devolved to the grassroots. They need to move their offices to the local level and deal with issues at that level. This is the best team to me. I thank the President for considering Hon. Florence to be the chairperson of this Commission. It is not the political affiliation, but the competence of Hon. Florence Kajuju. We know her at the local and national level.

Therefore, I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Wamalwa, when you have a chance to speak and Hon. Wanyonyi has, I am inclined to giving you. Yes, Hon. Kelvin Wanyonyi, those are the circumstances under which I find myself. Let us have Hon. Wanyonyi.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Hon. Temporary Deputy Speaker, let us also go for ranking. I am a ranking Member of this House. I have been sitting here for all this time.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): You now have the Floor.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): I take this opportunity to support this Motion. To me, Hon. Florence Kajuju is a very strong lady. Actually, I support her nomination because she is a very able lady. She is a very outgoing and committed lady. I have worked with her. Therefore, this is the right job for her. The work is well cut out for her. We want this Commission to be independent. There are lots of complaints out there. This is the right time and the right place. I think she is up to the task.

However, with Ndung'u, much as most Members have said that she had a very difficult work, which I agree, I think she messed up the political parties' docket that was given to her although she was in an acting position. She messed up quite a bit. People have complained. I have complained myself. We even sent a list of voters. It was all messed up. Let us not pretend about it. She was there. It is good riddance so that we can get a better person who is more committed to that position. I support her nomination. I hope she will work diligently under Hon. Kajuju because I know Hon. Kajuju is a very strong woman. She is going to be pushed around.

I also want to say that while receiving complaints, let us address issues beyond just reports. For example, we have cases of the Teachers' Service Commission (TSC), the National Police Service, advocates and IPOA. We want to deal with those cases systematically and get to the root cause of most of them so that our people, and some of us who have been receiving such complaints from the people we represent here, are protected. I hope they will go beyond the reports that we will be getting. I suggest and hope that that is going to be the work of this Commission although it has been there. I did not even know it has been there because we have never heard about them out there. They should go around the whole country from place to place.

County governments are messing up. We have given them money and when you go to look at the jobs they have done in some places, they are not completed. All I see are National Government-Constituencies Development Fund (NG-CDF) projects. I do not even see projects that have been done by my county government. This Commission should go around the country so that it can fix some of these things.

I want to give this chance to my colleagues so that they can contribute.

I support the Motion.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Looking at my screen, Members are keen to speak to this Motion, but I am afraid it is 7 p.m. and the House must rise. Nevertheless, because we have not called the Mover to reply, there is certainly opportunity to contribute when this matter comes up again.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): The time being 7 p.m., this House stands adjourned until Thursday, 26<sup>th</sup> July 2018 at 2.30 p.m.

The House rose at 7.01 p.m.